

Food Standards (Proposal P1043 – Code Revision (2016)) 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 date specified in clause 3 of this variation.

Dated 7 April 2017



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

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC 110 on 13 April 2017. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Proposal P1043 – Code Revision (2016)) Variation*.

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

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

3 Commencement

The variation commences on gazettal.

SCHEDULE

Standard 1.1.1 – Structure of the Code and general provisions

[1] Section 1.1.1—2(2)

Omit

Note The Chapters cover the following material:

- (a) Chapter 1:
 - (i) preliminary material; and
 - (ii) provisions that apply to all foods;
- (b) Chapter 2—provisions that apply only to particular foods;
- (c) Chapter 3—food hygiene (applies in Australia only);
- (d) Chapter 4—the primary production and processing of food (applies in Australia only);
- (e) Chapter 5—revocation of previous versions of Standards 1.1.1 to 2.10.3 and transitional matters.

Schedules 1 to 30 follow Chapter 5.

substitute

Note The Chapters cover the following material:

- (a) Chapter 1:
 - (i) preliminary material; and
 - (ii) provisions that apply to all foods;
- (b) Chapter 2—provisions that apply only to particular foods;
- (c) Chapter 3—food hygiene (applies in Australia only);
- (d) Chapter 4—the primary production and processing of food (applies in Australia only);

Schedules 1 to 29 follow Chapter 4.

[2] Section 1.1.1—2(2)

Omit 'Standard 4.2.4A Primary Production and Processing Standard for Specific Cheeses',

and omit

Chapter 5 Revocation, transitionals etc

Standard 5.1.1 Revocation and transitional provisions – 2014 revision

Standard 1.1.2 – Definitions used throughout the Code

[3] Section 1.1.2—2(3) (definition of *permitted flavouring substance*)

Omit '2013 (edition 26)', substitute '2015 (edition 27)'

Standard 1.2.1 – Requirements to have labels or otherwise provide information

[4] Section 1.2.1—9(6)

Omit 'stated in labelling that is'

[5] Section 1.2.1—9(7)(c)

Omit '1.2.7—27(4)', substitute '1.2.7—26(4)'

- [6] **Section 1.2.1—9(7)(d)**
Omit '1.2.7—27(2) and 1.2.7—27(3)', substitute '1.2.7—26(2) and 1.2.7—26(3)'

Standard 1.2.3 – Information requirements – warning statements, advisory statements and declarations

- [7] **Section 1.2.3—4(1)(b)(i)(B)(b)**
Omit 'mg/kg;', substitute 'mg/kg; or'

Standard 1.2.5 – Information requirements – date marking of food for sale

- [8] **Section 1.2.5—3(2)**
Omit, and substitute
- (2) Unless the food is an infant formula product, the date marking information is not required if:
 - (a) the *best-before date of the food is 2 years or more after the date it is determined; or
 - (b) the food is an individual portion of ice cream or ice confection.

Standard 1.2.7 – Nutrition, health and related claims

- [9] **Section 1.2.7—2 (Note 1) (paragraph (c) of the definition of *food group*)**
Omit 'legumes and cereals', substitute 'legumes, cereals, nuts, seeds, or a combination of these ingredients'
- [10] **Section 1.2.7—18(4) (Note)**
Omit 'Part 9 of Chapter 2', substitute 'Part 2.9'
- [11] **Section 1.2.7—20(3)(a)**
Omit '(4)', substitute '(6)'

Standard 1.2.8 – Nutrition information requirements

- [12] **Section 1.2.8—6(1)(d)(i)**
Omit 'calories or kilocalories', substitute 'kilocalories'

Standard 1.3.2 – Vitamins and minerals

- [13] **Standard 1.3.2 (Note 3)**
Omit '1.1.1—10(4)(b)', substitute '1.1.1—10(6)(b)'

Standard 1.5.1 – Novel foods

- [14] **Standard 1.5.1 (Note 3)**
Omit '1.1.1—10(3)(b) and (4)(f)', substitute '1.1.1—10(5)(b) and (6)(f)'
- [15] **Section 1.5.1—3**
Omit '1.1.1—10(3)(b) and (4)(f)', substitute '1.1.1—10(5)(b) and (6)(f)'

Standard 2.5.7 – Dried milk, evaporated milk and condensed milk

- [16] **Section 2.5.7—5(1)**
Omit, and substitute
- (1) A food that is sold as evaporated milk must:
 - (a) be evaporated milk; and

- (b) contain no less than 34% m/m milk protein in milk solids non-fat.

Standard 2.6.3 – Kava

[17] Standard 2.6.3 (Note 3)

Omit '1.1.1—10(3)(e) and (4)(i)', substitute '1.1.1—10(5)(e) and (6)(i)'

[18] Section 2.6.3—3

Omit 'paragraphs 1.1.1—10(3)(e) do', substitute 'paragraph 1.1.1—10(5)(e) does'

Standard 2.9.1 – Infant formula products

[19] Section 2.9.1—11(1)(a)(ii)

Omit 'S29—8', substitute 'S29—9'

[20] Section 2.9.1—22

Omit, and substitute

2.9.1—22 Storage instructions

For the labelling provisions, the storage instructions must cover the period after the package is opened.

Note The labelling provisions are set out in Standard 1.2.1.

Standard 2.9.2 – Food for infants

[21] Section 2.9.2—11(2)

Omit 'Standard 1.2.7', substitute 'subsection 1.2.8—6(12)'

Standard 2.9.3 – Formulated meal replacements and formulated supplementary foods

[22] Section 2.9.3—5(1)(c)

Omit 'S29—14', substitute 'section S29—14'

[23] Section 2.9.3—5(2)(a)

Omit 'S29—14', substitute 'section S29—14'

[24] Section 2.9.3—6(1)(a)

Omit 'S29—14', substitute 'section S29—14'

Standard 2.9.4 – Formulated supplementary sports foods

[25] Section 2.9.4—6(2)

Omit, and substitute

- (2) The label on a package of formulated supplementary sports food may claim the presence of a vitamin or mineral in the food only if:
- (a) a serving of the food, or, for a food that requires dilution or reconstitution according to directions, the amount of the food that produces a normal serving, contains at least 10% *RDI or *ESADDI for that vitamin or mineral specified in Column 3 of the tables to sections S1—2 or S1—3, as appropriate; and
 - (b) the amount claimed is no more than the amount specified in Column 3 of the table to section S29—16 for that vitamin or mineral.

Standard 2.9.5 – Food for special medical purposes

[26] Section 2.9.5—3

Omit, and substitute

2.9.5—3 Application of other standards

The following provisions do not apply to food for special medical purposes:

- (a) paragraphs 1.1.1—10(6)(b) (foods used as nutritive substances) and 1.1.1—10(6)(f) (novel foods); and
- (b) unless the contrary intention appears, Part 1.2 of Chapter 1 (labelling and other information requirements); and
- (c) Standard 2.9.2, Standard 2.9.3 or Standard 2.9.4 (food for infants, formulated meal replacements and formulated supplementary foods, formulated supplementary sports foods).

[27] Section 2.9.5—11(b)

Omit, and substitute

- (b) information that complies with Articles 18, 19, 20 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers; or

Standard 2.10.3 – Chewing gum

[28] Section 2.10.3—4(2)

Omit 'serve' wherever occurring, substitute 'serving'

[29] Section 2.10.3—5(1)

Omit 'serve' wherever occurring, substitute 'serving'

Standard 4.2.4 – Primary Production and Processing Standard for Dairy Products

[30] Section 4.2.4—16(3)

Omit, and substitute

(3) However, milk or dairy products used to make cheese or cheese products do not need to be processed in accordance with subclauses 16(1) and 16(2) –

- (a) if the cheese or cheese product is processed such that –
 - (i) the curd is heated to a temperature of no less than 48°C; and
 - (ii) the cheese or cheese product has a moisture content of less than 39%, after being stored at a temperature of no less than 10°C for a period of no less than 120 days from the date of processing; or
- (b) the milk is produced, transported and processed in accordance with Division 5 if used to make raw milk cheese.

[31] Section 4.2.4—21

Omit 'must subject', substitute 'must be subject'

Standard 5.1.1 – Revocation and transitional provisions – 2014 revision

[32] Repeal the Standard

Schedule 1 – RDIs and ESADDIs

[33] Section S1—2 (table)

Omit

Vitamin C	RDI	40 mg ³ total of L-ascorbic and dehydro-ascorbic acid	30 mg ³ total of L-ascorbic and dehydro-ascorbic acid	30 mg ³ total of L-ascorbic and dehydro-ascorbic acid
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substitute

Vitamin C	RDI	40 mg total of L-ascorbic and dehydro-ascorbic acid	30 mg total of L-ascorbic and dehydro-ascorbic acid	30 mg total of L-ascorbic and dehydro-ascorbic acid
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[34] Section S1—5(2) (table)

Omit the subsection, substitute

- (2) The table to this subsection is:

Conversion factors—vitamin E

<i>Vitamin E form</i>	<i>Conversion factor (µg/1 µg alpha-tocopherol equivalents)</i>
dl-alpha-tocopherol	1.36
d-alpha-tocopherol concentrate	(see paragraph (1)(b))
Tocopherols concentrate, mixed	(see paragraph (1)(b))
d-alpha-tocopheryl acetate	1.10
dl-alpha-tocopheryl acetate	1.49
d-alpha-tocopheryl acetate concentrate	(see paragraph (1)(b))
d-alpha-tocopheryl acid succinate	1.23

Note Natural forms of vitamin E may have conversion factors that are not provided in this table.

Schedule 3 – Identity and purity

[35] Section S3—2(1)(b)

Omit

- (vii) FAO JECFA Monographs 13 (2012); or
(c) United States Pharmacopeial Convention (2014) Food chemicals codex. 9th ed, United States Pharmacopeial Convention, Rockville, MD; or

substitute

- (vii) FAO JECFA Monographs 13 (2012);
(viii) FAO JECFA Monographs 14 (2013);
(ix) FAO JECFA Monographs 16 (2014);
(x) FAO JECFA Monographs 17 (2015); or
(c) United States Pharmacopeial Convention (2016) Food chemicals codex. 10th ed, United States Pharmacopeial Convention, Rockville, MD; or

[36] Section S3—3(j)

Omit '(2013)', substitute '(2016)'

[37] Section S3—6

Omit

- (2) The resins are limited to use in aqueous process streams for the removal of proteins and polyphenols from beer. The pH range for the resins shall be no less than 2 and no more than 5, and the temperatures of water and food passing through the resin bed shall not exceed 2°C. pH and temperature restrictions do not apply to cleaning processes.
- (3) When subjected to the extraction regime listed in the 21 CFR § 173.25(c)(4), but using dilute hydrochloric acid at pH 2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

substitute

- (2) When subjected to the extraction regime listed in the 21 CFR § 173.25(c)(4), but using dilute hydrochloric acid at pH 2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

[38] Section S3—9

Omit

- (2) The resins are limited to use in aqueous process streams for the isolation and purification of protein concentrates and isolates. The pH range for the resins shall be no less than 2 and no more than 10, and the temperatures of water and food passing through the resin bed must be no more than 40°C.
- (3) When subjected to the extraction regime listed in the 21 CFR § 173.25(c)(4), but using dilute hydrochloric acid at pH 2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

substitute

- (2) When subjected to the extraction regime listed in the 21 CFR § 173.25(c)(4), but using dilute hydrochloric acid at pH 2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

[39] Section S3—11

Omit

- (2) The resins are limited to use in aqueous process streams for the isolation and purification of protein concentrates and isolates. The pH range for the resins shall be no less than 2 and no more than 10, and the temperatures of water and food passing through the resin bed must be no more than 50°C.
- (3) When subjected to the extraction regime listed in the 21 CFR § 173.25(c)(4), but using dilute hydrochloric acid at pH 2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

substitute

- (2) When subjected to the extraction regime listed in the 21 CFR § 173.25(c)(4), but using dilute hydrochloric acid at pH 2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

[40] Section S3—25

Omit

- (2) The resins are limited to use in aqueous process streams for the isolation and purification of protein concentrates and isolates. The pH range for the resins shall be no less than 2 and no more than 10, and the temperatures of water and food passing through the resin bed must be no more than 50°C.
- (3) When subjected to the extraction regime listed in the 21 CFR § 173.25(c)(4), but using dilute hydrochloric acid at pH 2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

substitute

- (2) When subjected to the extraction regime listed in the 21 CFR § 173.25(c)(4), but using dilute hydrochloric acid at pH 2 in place of 5% acetic acid, the ion exchange resins shall result in no more than 25 ppm of organic extractives.

Schedule 4 – Nutrition, health and related claims

[41] Section S4—6

Omit

<i>Category score</i>	<i>NPSC category</i>	<i>The *nutrient profiling score must be less than ...</i>
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substitute

Category NPSC category

The *nutrient
profiling score must
be less than ...

Schedule 5 – Nutrient profiling scoring method

[42] Section S5—3

Omit 'average energy content and the average quantity', substitute '*average energy content and the *average quantity'

Schedule 8 – Food additive names and code numbers (for statement of ingredients)

[43] Section S8—2

Omit (from the numerical list)

308 δ-Tocopherol

309 γ-Tocopherol

substitute

308 γ-Tocopherol

309 δ-Tocopherol

Schedule 10 – Generic names of ingredients and conditions for their use

[44] Note 1

Omit '1.2.4—4(b)(i)', substitute '1.2.4—4(b)(iii)'

Schedule 11 – Calculation of values for nutrition information panel

[45] Section S11—2(4)

Omit the subsection, substitute

- (4) If for Standard 1.2.8 the *average energy content may be expressed in kilocalories, the number of kilocalories/100g must be calculated in accordance with the following equation:

$$AE(C) = \frac{AE(kJ)}{4.18}$$

where

AE(C) is the average energy content in kilocalories/100 g;

AE(kJ) is the average energy content in kilojoules/100 g, calculated in accordance with the equation set out in subsection (1).

Schedule 12 – Nutrition information panels

[46] Section S12—7

Omit 'serve', substitute 'serving'

Schedule 15 – Substances that may be used as food additives

[47] Section S15—5 (table)

Omit

8.3 *Processed comminuted meat, poultry and game products*

substitute

8.3 *Processed comminuted meat, poultry and game products, other than products listed in item 8.3.2*

Schedule 16 – Types of substances that may be used as food additives

[48] Section S16—3 (headings)

Omit 'Colouring', substitute 'Colourings'

Schedule 17 – Vitamins and minerals

[49] Section S17—2

Insert before the table

For paragraph 1.3.2—3(a), subparagraph 2.9.3—3(2)(c)(i), paragraph 2.9.3—5(2)(c), paragraph 2.9.3—7(2)(c) and sub-subparagraph 2.9.4—3(1)(a)(ii)(A) the permitted forms of minerals are:

Schedule 18 – Processing aids

[50] Section S18—3

Omit (when second appearing)

Regenerated cellulose, cross-linked and alkylated with epichlorohydrin and propylene oxide, then derivatised with tertiary amine groups whereby the amount of epichlorohydrin plus propylene oxide is no more than 70% of the starting amount of cellulose GMP

substitute

Regenerated cellulose, cross-linked and alkylated with epichlorohydrin, then derivatised with tertiary amine groups whereby the amount of epichlorohydrin is no more than 10% of the starting amount of cellulose GMP

[51] Section S18—9

Omit

Potassium bromate	Germination control in malting of bromate	Limit of determination
<i>Salmonella</i> phage preparation (S16 and FO1a)	Reduce population of <i>Salmonella</i> species on the surface of raw meat and raw poultry meat during processing.	GMP
Sodium bromate	Germination control in malting of bromate	Limit of determination

substitute

Potassium bromate	Germination control in malting	Limit of determination of bromate
<i>Salmonella</i> phage preparation (S16 and FO1a)	Reduce population of <i>Salmonella</i> species on the surface of raw meat and raw poultry meat during processing.	GMP
Sodium bromate	Germination control in malting	Limit of determination of bromate

Schedule 19 – Maximum levels of contaminants and natural toxicants

[52] Section S19—7(2)

Omit 'For this the table', substitute 'For the table'

Schedule 21 – Extraneous residue limits

[53] Note 1

Omit '1.1.1—10(5)', substitute '1.1.1—10(6)'

Schedule 23 – Prohibited plants and fungi

[54] Note 1

Omit '1.1.1—10(3)(a) and (4)(e)', substitute '1.1.1—10(5)(a) and (6)(e)'

Schedule 24 – Restricted plants and fungi

[55] Note 1

Omit '1.1.1—10(3)(a) and (4)(e)', substitute '1.1.1—10(5)(a) and (6)(e)'

Schedule 25 – Permitted novel foods

[56] Note 1

Omit '1.1.1—10(3)(b) and (4)(f)', substitute '1.1.1—10(5)(b) and (6)(f)'

Schedule 26 – Food produced using gene technology

[57] Section S26—3(4) (table)

Omit

(c) insect- and virus-protected potato lines RBMT15-101, SEM15-02 and SEM15-15

substitute

(c) insect- and virus-protected potato lines RBMT15-101, SEMT15-02 and SEMT15-15

Schedule 27 – Microbiological limits in food

[58] Section S27—4

Omit

Powdered infant formula products *

<i>Cronobacter</i>	30	0	not detected in 10g
<i>Salmonella</i>	60	0	not detected in 25 g

Powdered follow-on formula*

<i>Salmonella</i>	60	0	not detected in 25 g
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substitute

Powdered *infant formula, other than powdered *follow-on formula

<i>Cronobacter</i>	30	0	not detected in 10g
<i>Salmonella</i>	60	0	not detected in 25 g

Powdered follow-on formula

<i>Salmonella</i>	60	0	not detected in 25 g
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Schedule 29 – Special purpose foods

[59] Section S29—20 (table)

Omit

Fluoride

Potassium fluoride

substitute

Fluoride

Potassium fluoride

Sodium fluoride

[60] Section S29—21 (table)

Omit, from the heading

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Nutrient</i>	<i>Minimum amount per mJ</i>	<i>Maximum amount per mJ</i>

substitute

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Nutrient</i>	<i>Minimum amount per MJ</i>	<i>Maximum amount per MJ</i>

[61] Section S29—21 (table)

Omit

Vitamin E equivalents

1 mg alpha-tocopherol³

No maximum set

substitute

Vitamin E

1 mg alpha-tocopherol
equivalents³

No maximum set