

Food Standards (Proposal P1030 – Composition and Labelling of Electrolyte Drinks) 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 variation commences on the date specified in clause 3 of this variation.

9 August 2022



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Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC 150 on 12 August 2022. 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 P1030 – Composition and Labelling of Electrolyte Drinks) 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 the date of gazettal.

4 Effect of the variations made by this instrument

- (1) Section 1.1.1—9 of Standard 1.1.1 does not apply to the variations made by this instrument.
- (2) During the transition period, a food product may be sold if the food product complies with one of the following:
 - (a) the Code as in force without the variations made by this instrument; or
 - (b) the Code as amended by the variations made by this instrument.
- (3) For the purposes of this clause, **transition period** means the period commencing on the variation's date of commencement and ending 24 months after the date of commencement.

Schedule

[1] **Standard 1.1.2** is varied by omitting the definition of 'electrolyte drink' in subsection 1.1.2—3(2), substituting

electrolyte drink means a drink formulated for the rapid replacement of fluid, carbohydrate and electrolytes during or after 60 minutes or more of sustained strenuous physical activity.

[2] **Standard 1.2.1** is varied by omitting paragraph 1.2.1—8(1)(t), substituting

- (t) the declarations and other information required for electrolyte drinks and for electrolyte drink bases (see Standard 2.6.2);

[3] **Standard 2.6.2** is varied by

[3.1] inserting after Note 2 to the Standard

Division 1 Preliminary

[3.2] omitting section 2.6.2—2, substituting

2.6.2—2 Definitions

Note 1 In this Code (see section 1.1.2—2):

average quantity, of a substance in a food, means the average, for such foods from that producer or manufacturer, of:

- (a) where a serving or reference amount is specified—the amount of the substance that such a serving or reference amount contains; or
- (b) otherwise—the proportion of that substance in the food, expressed as a percentage.

Note See also section 1.1.1—6.

claim means an express or implied statement, representation, design or information in relation to a food or a property of food which is not mandatory in this Code.

claim requiring nutrition information:

- (a) means:
 - (i) a nutrition content claim; or
 - (ii) a health claim; and
- (b) does not include:
 - (i) a declaration that is required by an application Act; or
 - (ii) an endorsement; or
 - (iii) a *prescribed beverage gluten free claim.

health claim means a claim which states, suggests or implies that a food or a property of food has, or may have, a health effect.

Note See also subsection 2.10.2—8(3).

package:

- (a) means any container or wrapper in or by which food for sale is wholly or partly encased, covered, enclosed, contained or packaged; and
- (b) if food is carried or sold or intended to be carried and sold in more than one package—includes each package; and
- (c) does not include:
 - (i) a *bulk cargo container; or
 - (ii) a pallet overwrap; or
 - (iii) a crate and packages which do not obscure labels on the food; or
 - (iv) a transportation vehicle; or
 - (v) a vending machine; or
 - (vi) a hamper; or
 - (vii) a container or wrapper (including a covered plate, cup, tray or other food container) in which food is served in a prison, hospital or *medical institution; or
 - (viii) for Standard 2.9.5—a covered plate, cup, tray or other food container in which food for special medical purposes is served by a *responsible institution to a patient or resident.

prescribed name, of a particular food, means a name declared by a provision of this Code to be the prescribed name of the food.

Note Under the labelling provisions in Standard 1.2.1 and section 1.2.2—2, if a food has a prescribed name, it must be used in the labelling of the food.

property of food means a *component, ingredient, constituent or other feature of food.

small package means a package with a surface area of less than 100 cm².

sugars:

- (a) in Standard 1.2.7, Standard 1.2.8 and Schedule 4 (except where it appears with an asterisk as 'sugars*')—means monosaccharides and disaccharides; and
- (b) otherwise—means any of the following products, derived from any source:
 - (i) hexose monosaccharides and disaccharides, including dextrose, fructose, sucrose and lactose;
 - (ii) starch hydrolysate;
 - (iii) glucose syrups, maltodextrin and similar products;
 - (iv) products derived at a sugar refinery, including brown sugar and molasses;
 - (v) icing sugar;
 - (vi) invert sugar;
 - (vii) fruit sugar syrup;but does not include:
 - (i) malt or malt extracts; or
 - (ii) sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup, erythritol or lactitol.

Note **Sugar** is defined differently—see section 1.1.2—3.

unit quantity means:

- (a) for a food that is a solid or semi-solid food—100 grams; or
- (b) for a food that is a beverage or other liquid food—100 millilitres.

Note 2 In this Code (see section 1.1.2—3):

brewed soft drink means a food that:

- (a) is the product prepared by a fermentation process from water with sugar and one or more of:
 - (i) fruit extractives or infusions; or
 - (ii) vegetable extractives or infusions; and
- (b) contains no more than 1.15% alcohol by volume.

electrolyte drink means a drink formulated for the rapid replacement of fluid, carbohydrate and electrolytes during or after 60 minutes or more of sustained strenuous physical activity.

electrolyte drink base means a solid or liquid which, when made up, makes an electrolyte drink.

formulated beverage means a non-carbonated, ready-to-drink, flavoured beverage that:

- (a) is water-based; and
- (b) contains added vitamins or minerals or both vitamins and minerals; and
- (c) contains no more than 240 mL/L of fruit from one or more of the following sources:
 - (i) fruit juice;
 - (ii) fruit purée;

- (iii) concentrated fruit juice;
- (iv) concentrated fruit purée;
- (v) *comminuted fruit;
- (vi) orange peel extract; and
- (d) contains no more than 75 g/L of sugars; and
- (e) does not contain:
 - (i) carbon dioxide; or
 - (ii) caffeine; and
- (f) is not mixed with any other beverage.

fruit drink means a product that is prepared from:

- (a) one or more of the following:
 - (i) fruit juice;
 - (ii) fruit purée;
 - (iii) concentrated fruit juice;
 - (iv) concentrated fruit purée;
 - (v) *comminuted fruit;
 - (vi) orange peel extract; and
- (b) one or more of the following:
 - (i) water;
 - (ii) mineralised water; and
 - (iii) sugars.

mineral water or **spring water** means ground water obtained from subterranean water-bearing strata that, in its natural state, contains soluble matter.

non-alcoholic beverage:

- (a) means:
 - (i) packaged water; or
 - (ii) a water-based beverage, or a water-based beverage that contains other foods (other than alcoholic beverages); or
 - (iii) an electrolyte drink; and
- (b) does not include a brewed soft drink.

sugar means, unless otherwise expressly stated, any of the following:

- (a) white sugar;
- (b) caster sugar;
- (c) icing sugar;
- (d) loaf sugar;
- (e) coffee sugar;
- (f) raw sugar.

Note 3 In this Code (see subsection 1.1.2—9(1))

nutrition content claim means a claim that:

- (a) is about:
 - (i) the presence or absence of any of the following:
 - (A) *biologically active substance;
 - (B) *dietary fibre;
 - (C) energy;
 - (D) minerals;
 - (E) potassium;
 - (F) protein;
 - (G) *carbohydrate;
 - (H) 'fat';
 - (I) the components of any one of protein, carbohydrate or 'fat';
 - (J) *salt;
 - (K) sodium;
 - (L) vitamins; or
 - (ii) *glycaemic index or glycaemic load; and
- (b) does not refer to the presence or absence of alcohol; and
- (c) is not a *health claim.

Note See also subsections 2.6.2—5(4) and 2.10.2—8(3).

Division 2 Packaged water

[3.3] inserting after section 2.6.2—5

Division 3 Non-alcoholic beverages and brewed soft drinks

[3.4] omitting sections 2.6.2—9 to 2.6.2—13 inclusive, substituting

2.6.2—9 Requirement for food sold as a formulated beverage

A food sold as a formulated beverage must be a formulated beverage.

Division 4 Electrolyte drinks and electrolyte drink bases

2.6.2—10 Definitions and interpretation

Definitions

(1) In this Division:

Prescribed electrolyte means any of the following:

- (a) sodium;
- (b) potassium;
- (c) calcium;
- (d) magnesium;
- (e) chloride.

Interpretation of compositional and declaration requirements

(2) For an electrolyte drink base, the compositional and declaration requirements in this Division apply to an electrolyte drink base as ready to drink.

2.6.2—11 Composition of electrolyte drink or electrolyte drink base

(1) A food that is sold as an electrolyte drink or an electrolyte drink base must be an electrolyte drink or an electrolyte drink base, as appropriate.

(2) An electrolyte drink or electrolyte drink base must contain:

- (a) no less than 10 mmol/L of sodium; and
- (b) no less than 20 g/L and no more than 100 g/L in total of the following:
 - (i) dextrose;
 - (ii) fructose;
 - (iii) glucose syrup;
 - (iv) maltodextrin;
 - (v) sucrose; and
- (c) no more than 50% of total carbohydrate as fructose.

(3) An electrolyte drink or electrolyte drink base may contain:

- (a) calcium phosphates;
- (b) potassium phosphates;
- (c) calcium citrates;
- (d) potassium citrates;
- (e) sodium citrates;
- (f) potassium carbonates, including potassium bicarbonate;
- (g) potassium chloride;
- (h) calcium chloride;
- (i) sodium chloride;

- (j) calcium lactate;
- (k) magnesium lactate;
- (l) magnesium sulphate.

2.6.2—12 Labelling of electrolyte drinks and electrolyte drink bases

- (1) 'Electrolyte drink' is a *prescribed name for an electrolyte drink and an electrolyte drink base.
- (2) For the labelling provisions, the following information is required:
 - (a) the recommended volume and frequency of use; and
 - (b) the nutrition information panel must also declare the *average quantity per serving and per *unit quantity of:
 - (i) each type of monosaccharide present; and
 - (ii) each type of disaccharide present; and
 - (iii) subject to subsection (3), each prescribed electrolyte present (other than sodium), expressed in milligrams or both milligrams and millimoles.

Note 1: The labelling provisions are set out in Standard 1.2.1.

Note 2: Section 1.2.8—5 provides that packaged food (unless exempted) must include a nutrition information panel (NIP). Standard 1.2.8 also contains other requirements relating to NIPs e.g. what information must be included and how to express that information in a NIP (see sections 1.2.8—6 and 1.2.8—7). The requirements set out in paragraph 2.6.2—12(2)(b) are in addition to those other requirements.

Note 3: Subparagraph 1.2.8—6(1)(d)(iii) requires that a nutrition information panel must contain (among other information) the average quantity of sodium, expressed in milligrams or both milligrams and millimoles for a serving of the food and a unit quantity of the food.

- (3) Subparagraph 2.6.2—12(2)(b)(iii) applies only in relation to an electrolyte drink or an electrolyte drink base to which a substance listed in subsection 2.6.2—11(3) has been added.

2.6.2—13 Labelling requirement for electrolyte drinks and electrolyte drink bases in small packages

- (1) This section applies to an electrolyte drink or electrolyte drink base:
 - (a) that is in a *small package; and
 - (b) about which a *claim requiring nutrition information is made; and
 - (c) the claim relates to a prescribed electrolyte.
- (2) For the labelling provisions, the required information includes the *average quantity per serving of each prescribed electrolyte present, expressed in milligrams or both milligrams and millimoles.

Note 1: The labelling provisions are set out in Standard 1.2.1.

Note 2: The requirements of this subsection are in addition to the requirements set out in section 1.2.8—14. Section 1.2.8—14 sets out requirements for food for sale in a small package where a claim requiring nutrition information is made in relation to the food.

- (3) Paragraph 1.2.8—14(1)(b) does not apply to a *claim requiring nutrition information that is made about a prescribed electrolyte.

Note: Paragraph 1.2.8—14(1)(b) sets out nutrition information requirements for food for sale in a small package where a claim requiring nutrition information is made about a matter listed in Column 1 of the table to section S13—2 (such as sodium or a mineral with a Recommended Dietary Intake (RDI)).

2.6.2—14 Recommended dietary intake information prohibited

- (1) An *RDI must not be stated or declared in relation to an electrolyte drink or electrolyte drink base.
- (2) Section 1.2.8—9 does not apply to an electrolyte drink or electrolyte drink base.

Note: Section 1.2.8—9 relates to minerals with an RDI (among other things). Some of the substances

listed as 'prescribed electrolytes' in section 2.6.2—10 are also minerals with an RDI for the purposes of section 1.2.8—9 e.g. calcium and magnesium (see also the table to section S1—3).

2.6.2—15 Nutrition content claims about electrolyte drinks and electrolyte drink bases

- (1) A nutrition content claim must not be made about an electrolyte drink or electrolyte drink base unless:
 - (a) subject to paragraph (2)(b), the claim is made in accordance with Division 4 of Standard 1.2.7; and
 - (b) the claim is about any of the following:
 - (i) sugar or sugars; or
 - (ii) carbohydrate; or
 - (iii) energy; or
 - (iv) the presence of one or more prescribed electrolytes.
- (2) If a nutrition content claim is made under subparagraph (1)(b)(iv):
 - (a) the claim must only state that the electrolyte drink or electrolyte drink base contains one or both of the following:
 - (i) electrolytes;
Example: Contains electrolytes.
 - (ii) a prescribed electrolyte that is present in the food, provided that the claim also states that the prescribed electrolyte is an electrolyte; and
Example: This food contains the electrolytes: calcium and sodium.
 - (b) any conditions for nutrition content claims in Standard 1.2.7 that relate to a prescribed electrolyte present in the food do not apply to the nutrition content claim.

2.6.2—16 Health claims about electrolyte drinks and electrolyte drink bases

- (1) Standard 1.2.7 does not apply to a *health claim made about an electrolyte drink or electrolyte drink base.
- (2) A *health claim must not be made about an electrolyte drink or electrolyte drink base unless:
 - (a) the food has an average osmolality of 200–340 mOsmol/kg; and
 - (b) the claim is about any of the following:
 - (i) rapid rehydration in association with words to the effect of 'after at least 60 minutes or more of strenuous physical activity';
 - (ii) rapid hydration in association with words to the effect of 'during at least 60 minutes or more of strenuous physical activity';
 - (iii) contribution to the maintenance of performance by rapid hydration in association with words to the effect of 'during at least 60 minutes or more of strenuous physical activity'.
- (3) In a *health claim made under subsection (2), the amount of time must be expressed only as a quantifiable amount of time.
Examples: '60 minutes' or 'sixty minutes'; '1 hour' or 'one hour'.
- (4) Subject to subsection (3), nothing in this section is to be taken to prescribe the words that must be used when making a *health claim under this section.
Example: 'exercise' instead of 'physical activity'.

2.6.2—17 Claims in relation to the tonicity of electrolyte drinks

- (1) A claim that an electrolyte drink is isotonic may only be made if the electrolyte drink has an average osmolality of 250–340 mOsmol/kg.

- (2) For the labelling provisions, for an electrolyte drink about which a claim is made that the drink is isotonic, hypertonic or hypotonic, the following information is required—a declaration of the osmolality of the electrolyte drink, expressed in mOsm/L.

Note: The labelling provisions are set out in Standard 1.2.1.

2.6.2—18

Claims in relation to sodium in electrolyte drinks and electrolyte drink bases

Subsection 1.2.8—6(12) does not apply to a *claim requiring nutrition information that is made in relation to salt or sodium in an electrolyte drink or electrolyte drink base.

Note: Subsection 1.2.8—6(12) provides that, if a claim requiring nutrition information is made in relation to salt or sodium in a food product, the nutrition information panel for that product must include a declaration of the average quantity of potassium in accordance with section S12—3.