



one voice - adding value

2 July 2014

Project Manager
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Re: Call for submissions - *Proposal P1033 Code Maintenance XII*.

Dear Sir/Madam

The Australian Food and Grocery Council (AFGC) appreciate the opportunity to provide a submission in relation to *Proposal P1033 Code Maintenance XII*.

The AFGC is the leading national organisation representing Australia's food, drink and grocery manufacturing industry, with small businesses comprising almost 40 per cent of the AFGC's members.

The AFGC have reviewed the changes proposed under P1033 and provide the attached document with a summary of our feedback. The AFGC **supports** the changes proposed with the exception of the amendments in relation to **Standard 1.2.4** and the different sunset dates for entries relating to Tocopherols concentrate mixed (306). The AFGC **does not support** the response proposed by FSANZ and requests that FSANZ align on the later date (February 21, 2015), not the earlier, as this could affect label changes.

With respect to **Standard 2.9.2 subclause 6(2)** – the AFGC agree in principle, but direct comment should be sought from infant food manufacturers to ensure the resolution of the ambiguity does not trigger any need for reformulation. If it does, the amendment should be progressed separately and not in a Code Maintenance proposal.

Please do not hesitate to contact the AFGC if you wish to discuss our comments further.

Sincerely



Advisor, Policy and Regulation

Attachment: FSANZ Supporting document 1 – AFGC comments

Supporting document 1

List of proposed amendments – Proposal P1033

Code Maintenance XII

1. STANDARD 1.1.1

Location: clause 2, definition of bulk cargo container
Issue: (g) does not follow on from the lead-in sentence
Response: Use definition in P1025 – Code Revision.

AFGC View: This definition is over specified – why not simply omit (i) and (iii)-(vi) and rephrase as a single sentence? The issue is better addressed as part of P1025.

2. STANDARD 1.1.1

Location: subclause 11(1)
Issue: 'a' is missing from the first line.
Response: insert 'a'.

AFGC View: Agree (assuming it precedes 'package').

3. STANDARD 1.1A.6

Location: subclause 2(3)
Issue: new subclause inserted by *Proposal P242 – Food for Special Medical Purposes – Consequential Variation Amendment 2012 (No. 1)* has a colon instead of a dash + reword as P1023 has been gazetted and will come into effect by the time CMP XII is gazetted (expected early Nov 2014).
Response: Reword to remove reference to P1023 and to make the meaning clearer and correct punctuation error.

AFGC View: Agree with maintenance provision in paragraph (a). Paragraph (b) seems speculative and the need for, and content of, any transitional provisions for future standards would be better addressed at the time any such regulation is actually introduced.

4. STANDARD 1.2.1

Location: paragraph 2(2)(da)
Issue: Incorrectly refers to subclause 24(5) of Standard 1.2.7, this should be subclause 25(5).
Response: Amend the reference from subclause 24(5) to 25(5).

AFGC View: Agree.

5. STANDARD 1.2.1

Location: paragraph 3(1)(f)
Issue: Incorrect spelling of 'discernible' (spelt as 'discernable' in text).
Response: Correct spelling.

AFGC View: Agree.

- 6. STANDARD 1.2.1**
Location: clause 4
Issue: (c) does not follow on from the word 'for'.
Response: move 'for' from the end of the lead-in sentence to the start of both (a) and (b).
AFGC View: Agree.
- 7. STANDARD 1.2.1**
Location: paragraph 5(1)(e)
Issue: Name of Standard 1.2.11 is incorrect (Country of Origin Requirements).
Response: Change to Country of Origin Labelling.
AFGC View: Agree.
- 8. STANDARD 1.2.4**
Location: Schedule 2
Issue: Different sunset date for entries relating to Tocopherols concentrate, mixed (306) – CMP X (P1021) date is 11 October 2014 (Part 1), P1023's date is 21 February 2015 (Part 2).
Response: The Part 1 entry will be removed by the time CMP XII is gazetted (expected early Nov 2014). Delete the remaining entry in Part 2 only.
AFGC View: **Disagree.** Given the confusion due to FSANZ drafting error, FSANZ should align on the later date, not the earlier as this could affect label changes.
- 9. STANDARD 1.2.4**
Location: Schedule 2
Issue: Change to description of 470 – which was incorrectly formatted (columns reversed) in CMP X and could not be changed.
Response: Amend description as intended – Name needs to be consistent with Sched 2 of Std 1.3.1 (JECFA nomenclature).
AFGC View: Agree.
- 10. STANDARD 1.2.4**
Location: Schedule 2
Issue: Ammonium bicarbonate (503) should be replaced with 'Ammonium carbonate 503'. Ammonium bicarbonate is the same chemical as another entry ammonium hydrogen carbonate, while ammonium carbonate is not listed. The new entry (and current remaining entry) is consistent with JECFA nomenclature.
Response: Replace with Ammonium carbonate (503)
AFGC View: Agree.
- 11. STANDARD 1.2.4**
Location: Schedule 2
Issue: Advantame does not have an INS number. This has recently been determined.
Response: Update with INS number (969).
AFGC View: Agree.
- 12. STANDARD 1.2.4**
Location: Schedule 2
Issue: Entries for yeast mannoproteins missing (inadvertently not included in A605).
Response: Include yeast mannoproteins (455).
AFGC View: Agree.

13. STANDARD 1.2.4

Location: Schedule 2

Issue: Editorial notes relating to tocopherols added by P1023.

Response: Delete as not needed after 11 October 2014 (CMP XI gazettal is expected early Nov 2014).

AFGC View: See comment at 8 above.

14. STANDARD 1.2.5

Location: Editorial note following subclause 2(2)

Issue: Refers to the definition of small package as being in Standard 1.2.1, since moved to Standard 1.1.1.

Response: Amend to remove reference to 'small package' in line with P1025.

AFGC View: Agree.

15. STANDARD 1.2.7

Location: clause 18

Issue: Missing number (1) from first subclause.

Response: insert (1).

AFGC View: Agree.

16. STANDARD 1.2.7

Location: Schedule 3 (page 26)

Issue: US spelling for 'utilization' in selenium entry.

Response: Correct to 'utilisation'.

AFGC View: Agree.

17. STANDARD 1.2.7

Location: Schedule 6

Issue: Inconsistent use of colons instead of dashes (clauses 4, 5, 6, 7) (from P293).

Response: Replace colons with dashes.

AFGC View: Agree.

18. STANDARD 1.2.8

Location: Definition of average energy content

Issue: missing full stop at the end of the definition (from P293)

Response: Insert

AFGC View: Agree.

19. STANDARD 1.2.8

Location: paragraph 5(1)(g)

Issue: Full stop at end of (h) should not be there as subclause continues after list.

Response: remove full stop and replace with a semi colon.

AFGC View: Agree.

20. STANDARD 1.2.9

Location: first Editorial note following subclause (2(1)

Issue: Mention of review commitment.

Response: Remove reference as not appropriate for inclusion in an Editorial note.

AFGC View: Agree.

21. STANDARD 1.2.9

Location: paragraph 3(b)
Issue: The word 'of' is missing from 'size [of] type'.
Response: Add 'of'.

AFGC View: Agree.

22. STANDARD 1.2.9

Location: Editorial note following clause 3
Issue: Refers to definition of small package in Standard 1.2.1 – this definition is now in Standard 1.1.1. Delete the note altogether as not required.
Response: Delete the Ed note in line with P1025. Reference to the location of a definition not necessary.

AFGC View: Agree.

23. STANDARD 1.3.1

Location: clause 11(a)(i)
Issue: Update FEMA GRAS list to include #26 (Feb 2013).
Response: Update reference.

AFGC View: Agree.

24. STANDARD 1.3.1

Location: clause 11
Issue: EC has now adopted an approved flavouring list.
Response: Include a reference to:
Annex 1 of Council Regulation (EU) No 872/2012 of 1 October 2012 adopting the list of flavouring substances [2012] OJ L267/1
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:267:0001:0161:EN:PDF>

AFGC View: Agree.

25. STANDARD 1.3.1

Location: Schedule 1
Issue: 13.3 heading refers to 'Formula meal replacements' whereas this should be 'Formulated meal replacements'.
Response: Change 'Formula' to 'Formulated'.

AFGC View: Agree.

26. STANDARD 1.3.1

Location: Schedule 1 and Schedule 2
Issue: Advantame (currently listed Sch 2 only) and yeast mannoproteins (currently listed in Schedule 1 only) do not have INS numbers. These have recently been determined.
Response: Update with INS numbers.

AFGC View: Agree.

27. STANDARD 1.3.1

Location: Schedule 1
Issue: Aspartame (951) in Schedule 1 under food category 14.1.3 under electrolyte drinks and electrolyte drink bases is missing its INS Number (used for all other entries).
Response: Insert INS number.

AFGC View: Agree.

28. STANDARD 1.3.1

Location: Schedule 1
Issue: Editorial note relating to tocopherols added by P1023.
Response: Delete as not needed after 11 October 2014 (CMP XI gazettal is expected early Nov 2014).

AFGC View: See comment at 8 above.

29. STANDARD 1.3.2

Location: Table to clause 3
Issue: Several references to clause 8 under Fruit juice et al – clauses 6–9 were removed as part of P293.
Response: Amend references (clause 8 is now clause 5).

AFGC View: Agree.

30. STANDARD 1.3.3

Location: Table to clause 14
Issue: Permissions for hydrogen peroxide added in A1068 – should be 'or' permissions not 'and'.
Response: Put 'or' at the end of each para as per P1025.

AFGC View: Agree.

31. STANDARD 1.3.4

Location: clause 2
Issue: As the EU now has a (new) set of additive specifications, these should be included as additional primary source + update (c).
Response: Add the following entry:
The updated EU regulation is Commission Regulation (EU) No 231/2012
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:083:0001:0295:EN:PDF>
+ update (c) with citation from P1025.

AFGC View: Agree.

32. STANDARD 1.3.4

Location: Clause 3(i)
Issue: Need to update ref to Specifications and Standards for Food Additives (7th Ed) 2000 for Japan. Is now the 8th Ed 2007. Ministry of Health and Welfare Notification No. 370, 1959 (latest revision: MHLW Notification No.336, 2010)
<http://www.jetro.go.jp/en/reports/regulations/pdf/foodext201112e.pdf>
Response: Update citation.

AFGC View: Agree.

- 33. STANDARD 1.3.4**
Location: Schedule (Specification for selenium-enriched yeast)
Issue: 'for' is missing from title.
Response: Insert 'for'.
AFGC View: Agree.
- 34. STANDARD 1.5.3**
Location: Table to clause 4
Issue: The entry for litchi is after longan.
Response: Correct the alphabetical listing.
AFGC View: Agree.
- 35. STANDARD 1.5.3**
Location: subclause 6(3)
Issue: Refers to 'clause' 2(1), not 'subclause'.
Response: Amend 'clause' to 'subclause'.
AFGC View: Agree.
- 36. STANDARD 1.6.1**
Location: 1.6.1 Schedule
Issue: Spelling of desiccated is incorrect (currently 'dessicated').
Response: Correct spelling.
AFGC View: Agree.
- 37. STANDARD 2.1.1**
Location: Table of Provisions
Issue: Reference to clause 4 needs to be amended to reflect Amendment No. 93 and references to clauses 5 and 1A need to be included to reflect Amendments No. 97 and 111.
Response: Amend and include references.
AFGC View: Agree.
- 38. STANDARD 2.1.1**
Location: Subclause 5(3)
Issue: Semi-colon should be a '–'.
Response: Amend.
AFGC View: Agree.
- 39. STANDARD 2.5.3**
Location: Clause 2
Issue: P1013 (CMP IX) replaced the clause and inadvertently did not include the original subclause (4) which related to the protein requirements in the Table to subclause 2(2) applying exclusively to fermented milk made from cow's milk.
Response: Re-insert the subclause.
AFGC View: Agree.

40. STANDARD 2.5.7

Location: subclause 2(1)
Issue: P1013 (CMP IX) amended the subclause and inadvertently removed the reference to evaporated milk.
Response: Re-insert the reference.

AFGC View: Agree.

41. STANDARD 2.6.2

Location: Table of Provisions
Issue: Clauses 2A and 2B are not listed (from Amendment 110).
Response: Insert clause references.

AFGC View: Agree.

42. STANDARD 2.7.4

Location: Editorial Note following the Purpose
Issue: The *Australian Wine and Brandy Corporation Act 1980* has been superseded by the *Wine Australia Corporation Act 1980* (re-named).
Response: Amend reference.

AFGC View: Agree.

43. STANDARD 2.9.1

Location: Table of Provisions
Issue: Clause 9A is missing (inserted as part of Amendment No. 105).
Response: Insert reference.

AFGC View: Agree.

44. STANDARD 2.9.2

Location: subclause 6(2)
Issue: Extra word 'of', but consider rewording phrase 'more than of 3 g/100 kJ of protein' as currently ambiguous because it could be interpreted as /100 kJ of energy from protein rather than the intent which is /100 kJ energy from fat, protein and carbohydrate.
Response: Reword phrase to clarify meaning.

AFGC View: Agree in principle, but direct comment should be sought from infant food manufacturers to ensure the resolution of the ambiguity does not trigger any need for reformulation. If it does, the amendment should be progressed separately and not in a Code Maintenance proposal.

45. STANDARD 2.9.5

Location: Subclause 3(2)
Issue: Refers to subclause 6(4) of Standard 1.5.3, which has been now been deleted
Response: Remove reference to subclause 6(4).

AFGC View: Agree.

46. STANDARD 2.10.3

Location: Editorial note following clause 5

Issue: Refers to small package definition in Standard 1.2.1. Under P242 this was moved into Std 1.1.1 + 2nd sentence is missing reference to clause 8A in Standard 1.2.8 + wording + wording needs to be amended to refer to 'claims requiring nutrition information', rather than 'nutrition claims'

Response: Delete the 1st sentence in line with P1025 as a reference to the location of a definition not necessary and include reference to clause 8A and amend wording.

AFGC View: Agree.

47. STANDARD 3.2.2

Location: subclause 3(2)

Issue: The words defining a fund raising event duplicate the words in the definition in Standard 1.1.1.

Response: Delete the words 'that is, events that raise funds solely for community or charitable causes and not for personal financial gain' in the clause as they are not necessary given the definition in Standard 1.1.1.

AFGC View: Agree in principle, but the amendment should also remove "that is" from the clause wording (so that there is no suggestion that paragraph (b) replaces the Standard 1.1.1. definition) and could then run as a single sentence.

48. STANDARD 3.2.2

Location: 5(2)(b)

Issue: CMP X amended the para, but resulted in 'of the food' being mentioned twice.

Response: Delete one occurrence of 'of the food'.

AFGC View: Agree.

49. STANDARD 3.2.2

Location: subclause 24(4)

Issue: The third and fourth paragraphs of the definition of 'outdoor dining area' are not numbered correctly.

Response: Renumber the third and fourth paragraphs of the definition as '(c)' and '(d)' respectively.

AFGC View: Agree.