



16 December 2016

Project Officer Proposal P1043
Food Standards Australia New Zealand
PO Box 10559
The Terrace
WELLINGTON 6036

Dear Sir/Madam

Proposal P1043 – Code Revision (2016)

Thank you for the opportunity to comment on this Proposal. The Ministry for Primary Industries (MPI) has the following comments to make.

Standard 1.1.1 – Structure of the Code and general provisions

[1] Section 1.1.1—2(2)

Agree with omission and substitution

[2] Section 1.1.1—2(2)

Do not agree with omitting all of section 1.1.1-2 (2) as noted in the Draft Variation. The rationale for omission relates to the reference to Chapter 5 only. Suggest omitting note (e) under section 1.1.1-2 (2) and reference to Chapter 5 following this.

Standard 1.1.2 – Definitions used throughout the Code

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

Agree with omission and substitution

Standard 1.2.1 – Requirements to have labels or otherwise provide information

[4] Section 1.2.1—9(6)

Under this clause, it relates to information that may either accompany or be displayed with the food or which must be provided to the purchaser on request. Given that the information can accompany or be displayed with the food, it is appropriate in this case that this information be 'stated in labelling'. In order to restore the requirements prior to

P1025, this clause should be revised to separate the requirements where it relates to information that is not required to be stated in labelling – i.e. 'provided to the purchaser on request' and where it is required to be stated in labelling i.e. is 'displayed in connection with the display of the food'.

[5] Section 1.2.1—9(7)(c)

Agree with omission and substitution.

[6] Section 1.2.1—9(7)(d)

Agree with omission and substitution.

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

[7] Section 1.2.3—4(1)(b)(i)(B)(b)

Agree with omission and substitution

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

[8] Section 1.2.5—3(2)

MPI agrees with the modified wording.

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*)

Agree with omission and substitution based on the amended definition of food group in Standard 1.1.2. However, the dairy analogues listed in S.17-4 are those derived from legumes only, and include: yoghurt and dairy desserts, ice cream and cheese. The dairy analogues do not include 'cereals, nuts, seeds or a combination of these ingredients'. We consider that S.17-4 be reviewed for consistency with clause (c) in the amended definition of food group under Standards 1.1.2 and 1.2.7-2.

[10] Section 1.2.7—18(4) (Note)

Agree with omission and substitution

[11] Section 1.2.7—20(3)(a)

Agree with omission and substitution

Standard 1.2.8 – Nutrition information requirements

[12] Section 1.2.8—6(1)(d)(i)

Agree with omission and substitution as per the Draft variation, however note that the 'Response' listed in the Supporting Document 1 is incorrect.

Standard 1.3.2 – Vitamins and minerals

[13] Standard 1.3.2 (Note 3)

Agree with omission and substitution.

Standard 1.5.1 – Novel foods

[14] Standard 1.5.1 (Note 3)

Agree with omission and substitution

[15] Section 1.5.1—3

Agree with omission and substitution

Standard 2.5.7 – Dried milk, evaporated milk and condensed milk

[16] Section 2.5.7—5(1)

Agree with omission and substitution

Standard 2.6.3 – Kava

[17] Standard 2.6.3 (Note 3)

Agree with omission and substitution

[18] Section 2.6.3—3

Agree with omission and substitution

Standard 2.9.1 – Infant formula products

[19] Section 2.9.1—11(1)(a)(ii)

Agree with omission and substitution

[20] Section 2.9.1—22

Agree.

Standard 2.9.3 – Formulated meal replacements and formulated supplementary foods

[21] Section 2.9.3—5(1)(c)

Agree with omission and substitution

[22] Section 2.9.3—5(2)(a)

Agree with omission and substitution

[23] Section 2.9.3—6(1)(a)

Agree with omission and substitution

Standard 2.9.4 – Formulated supplementary sports foods

[24] Section 2.9.4—6(2)

Agree with omission and substitution

Standard 2.9.5 – Food for special medical purposes

[25] Section 2.9.5—3

Supporting document 1 states that Section 2.9.5—3 Application of other standards, incorrectly references Standard 1.3.2 – *Vitamins and Minerals* and Standard 1.5.2 – *Food Produced using gene technology* and as such, the statement of provisions that do not apply to foods for special medical purposes needs to be revised. We note that

Supporting Document 1 is incorrect as Section 2.9.5—3 (c) actually references Standard 1.3.2 and Standard 1.5.1 – *Novel Foods*, not Standard 1.5.2. Further to this, Section 2.9.5—3 (a) states that Standard 1.2.7 – *Nutrition, Health and Related Claims* do not apply to foods for special medical purposes, yet this has not been captured in the proposed substitution text presented in the Draft Variation. This appears to be an oversight, as these foods may need to state their nutritional purpose, which in some cases is regarded as a claim.

[26] Section 2.9.5—11(b)

Agree

Standard 2.10.3 – Chewing gum

[27] Section 2.10.3—4(2)

Agree with omitting 'serve' wherever occurring, and substituting with 'serving'.

[28] Section 2.10.3—5(1)

Agree with omitting 'serve' wherever occurring, and substituting with 'serving'.

Standard 4.2.4 – Primary production and processing standard for dairy products

[29] Section 4.2.4—16(3)

Australian only standard.

[30] Section 4.2.4—21

Australian only standard.

Standard 5.1.1 – Revocation and transitional provisions – 2014 revision

[31] Repeal the Standard

Australian only standard.

Schedule 1 – RDIs and ESADDIs

[32] Section S1—2 (table)

Agree with deleting superscript numerals.

[33] Section S1—5(2) (table)

Agree to substitute 'tocopheryl' for 'tocopherol' in compound names to be consistent with the references to the substances in Schedule 29.

Schedule 3 – Identity and purity

[34] Section S3—2(1)(b)

Agree with omission and substitution.

[35] Section S3—3(j)

Agree with updating and including the reference to the new edition of the International Oenological Codex

[36] Section S3—6

Agree with omission and substitution.

[37] Section S3—9

Agree with omission and substitution.

[38] Section S3—11

Agree with omission and substitution.

[39] Section S3—25

Agree with omission and substitution.

Schedule 4 – Nutrition, health and related claims**[40] Section S4—6**

Agree with removal of the word 'score' in column 1.

Schedule 5 – Nutrient profiling scoring method**[41] Section S5—3**

Agree with omission and substitution.

Schedule 8 – Food additive names and code numbers (for statement of ingredients)**[42] Section S8—2**

We agree with the correction to the numerical listings for δ -tocopherol γ -tocopherol. However, we suggest that the names be aligned with their Codex INS names contained in CAC/GL 36. This uses the names of the Greek letters (gamma and delta) rather than their symbols (δ and γ). We suggest it would be desirable to allow both the letter names and symbols as alternatives, as is already allowed for *INS 575 Glucono delta-lactone* in S8--2, which is listed as ***Glucono δ -lactone or Glucono delta-lactone***. This suggested change will maintain the current requirements but allow the use of the Codex name as an option. This also removes the need to print a Greek letter symbol when the names is used which allows easier identification of these additives in ingredients lists. This is important because the names and code numbers for food additives as listed in S8--2 are prescribed names and numbers for use in the ingredient list under Standard 1.2.4--7(1).

Therefore we suggest for [42] to substitute the current entries for 308 and 309 with:

308	γ -Tocopherol or delta-Tocopherol
309	δ -Tocopherol or gamma-Tocopherol

If this is agreed, other food additive names with Greek symbols should also be revised, including

160e	b-apo-8'-Carotenal
160f	b-apo-8'-Carotenoic acid methyl or ethyl ester
307	α -Tocopherol
1100	α -Amylase

Schedule 10 – Generic names of ingredients and conditions for their use**[43] Note 1**

Agree to substitution with the correct cross-reference.

Schedule 11 – Calculation of values for nutrition information panel**[44] Section 11—2(4)**

Agree with omission and substitution.

Schedule 12 – Nutrition information panels

[45] Section S12—7

Agree with omitting 'serve' and substituting with 'serving'.

Schedule 15 – Substances that may be used as food additives

[46] Section S15—5 (table)

Agree with omission and substitution.

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

[47] Section S16—3 (heading)

In addition to the heading for Section S16—3 being amended, the headings for the two lists under S16-3 will also need to be amended to change the word *colouring* to *colourings*.

Schedule 17 – Vitamins and minerals

[48] Section S17—2

We agree that the table in section S17—2 should include the cross-references to the empowering provisions, however we note that the cross references do not align exactly with those in section S17—3. The references in S17—2 are more specific, and do not include all the cross-references contained in the drafting proposed for S17—2. It appears that several of the cross-references included in the proposed drafting under item [48] are incorrect and are not relevant to the table in section S17—2.

Schedule 18 – Processing aids

[49] Section S18—3

Agree with omission and substitution.

[50] Section S18—9

Agree with omission and substitution.

Schedule 19 – Maximum levels of contaminants and natural toxicants

[51] Section S19—7(2)

Agree with the substitute wording, although we note it is the removal of the word 'this' not 'the' that is required.

Schedule 21 – Extraneous residue limits

[52] Note 1

Australia only.

Schedule 23 – Prohibited plants and fungi

[53] Note 1

Agree with omission and substitution.

Schedule 24 – Restricted plants and fungi

[54] Note 1

Agree with omission and substitution.

Schedule 25 – Permitted novel foods

[55] Note 1

Agree with omission and substitution.

Schedule 26 – Food produced using gene technology

[56] Section S26—3(4) (table)

Agree with omission and substitution.

Schedule 27 – Microbiological limits in food

[57] Section S27—4

We note the erratum for item [57] which is replaced with:

Omit 'Powdered infant formula products*', substitute 'Powdered infant formula products, other than powdered follow-on formula'

Omit 'Powdered follow-on formula*', substitute 'Powdered follow-on formula'

Agree with omission and substitution, to provide correct terms for products captured.

Schedule 29 – Special purpose foods

[58] Section S29—21 (table)

Agree to change the reference from mJ to MJ.

[59] Section S29—21 (table)

Agree to correcting the formatting error.

Yours sincerely,



Manager Food Science and Risk Assessment

