

26 March 2021
152-21

Approval report – Proposal P1051

Code Revision (2020)

Food Standards Australia New Zealand (FSANZ) has approved amendments to the Australia New Zealand Food Standards Code (the Code) to correct typographical errors and formatting issues, and to update references.

On 3 October 2020, FSANZ sought submissions on draft variations and published an associated report. FSANZ received three submissions.

FSANZ approved the draft variation with amendments on 17 March 2021. The Food Ministers' Meeting¹ was notified of FSANZ's decision on 26 March 2021.

This Report is provided pursuant to paragraph 63(1)(b) of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

¹ Formerly referred to as the Australia and New Zealand Ministerial Forum on Food Regulation.

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Supporting document

SD1 List of proposed amendments (at Approval)

Executive summary

Food Standards Australia New Zealand (FSANZ) has approved a draft variation to the Australia New Zealand Food Standards Code (the Code) to correct typographical errors, make formatting changes and update references.

The amendments in the approved draft variation are all relatively minor in nature. No potential public health and safety concerns have been identified.

Each amendment is explained in SD1.

1 Introduction

1.1 The Proposal

Food Standards Australia New Zealand (FSANZ) prepared Proposal P1051 to make a range of relatively minor amendments to the Australia New Zealand Food Standards Code (the Code) including the correction of typographical errors, inconsistencies and formatting issues.

1.2 The current Standard

The approved draft variation will amend Standards 1.1.1, 1.1.2, 1.2.1, 1.2.5, 1.2.8, 1.6.1, 2.2.3, 2.6.3, 3.2.3, 4.2.3, 4.2.4 and Schedules 2, 3, 11, 13, 15, 18, 19, 20, 25, 27 and 29 of the Code.

1.3 Reasons for preparing Proposal

Minor errors and issues are identified in the Code from time to time. This Proposal was prepared to resolve such issues.

1.4 Procedure for assessment

The Proposal was assessed under the General Procedure.

1.5 Decision

The draft variation as proposed following assessment was approved with amendment.

The draft variation was amended to correct additional typographical errors and to update a number of amendments that were identified by FSANZ and submitters during the public consultation period (see section 2.1 below). All the amendments are explained in the SD1.

The additional variations were included at items [21] and [41], and the updated amendments are at items [16], [23] and [37] of the approved draft variation. Items [21], [23] and [41] are explained in the table to section 2.1 below. Item [16] has been amended to clarify that the asterisk is added to the first occurrence of 'transportation outer'.

Item [37] has been amended to include the specifications for the steviol glycoside Rebaudioside E. Subsection S3—35 of the Code had been amended last year by Application A1183 to include these specifications for the steviol glycoside Rebaudioside E. This amendment was not included in the draft variation in the call for submissions for this proposal.

The approved draft variation is at Attachment A. The approved variation takes effect on the date of gazettal.

The explanatory statement is at Attachment B. An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislation.

The draft variations on which submissions were sought are at Attachment C.

2 Summary of the findings

2.1 Summary of issues raised in submissions

Three submissions were received in response to the call for public submissions.

The Victorian Department of Health and Human Services and the Victorian Department of Jobs, Precincts and Regions have no comments and support the draft amendments.

The issues raised in the other two submissions from the New Zealand Food and Grocery Council (NZFGC) and the New Zealand Food Safety (New Zealand Ministry for Primary Industries) are considered in Table 1 below.

Table: Summary of issues raised by submitters

Issue	Raised by	FSANZ response (including any amendments to drafting)
<p>Amendment made by Item [3] of the Schedule of the draft variation</p> <p>NZFGC does not support this amendment with the following comment:</p> <p>Note that in Schedule 22 there is an entry titled "Cereal grain milling fractions". This group includes milling fractions of cereal grains at the final stage of milling and preparation in the fractions, and includes processed brans. The commodities listed under this heading and description include the following – <i>"Commodities:; Wheat flour; Wheat wholemeal"</i>.</p> <p>With the inclusion of the definition in Standard 1.1.2, the additional term in Schedule 22 for 'Wheat wholemeal' seems redundant.</p>	<p>New Zealand Food and Grocery Council</p>	<p>Noted.</p> <p>Not agreed. Schedule 22 does not provide a definition, it describes foods and classes of foods for the purposes of Standard 1.4.1, Standard 1.4.2, and a number of other provisions across the Code. Wheat flour and wholemeal are both foods within the same class, however there is no indication these mean the same thing. Further, wholemeal wheat flour is not specifically mentioned in Schedule 22.</p> <p>Standard 2.1.1 requires a definition of wheat flour for the purpose of defining the food that is subject to the fortification requirements, not to describe a class of foods to which it belongs. Clause 2.1.1—2 indicates that a definition was intended to be included, but for some reason fails to appear in the current version of clause 1.1.2—3.</p>
<p>Amendment made by Item [19] of the Schedule of the draft variation</p> <p>NZFGC makes the following comments:</p> <p>1. Subsection 1.2.8—6(1) is to be repealed and substituted by the same subsection but with all references to "average quantity" to be replaced by 'average</p>	<p>New Zealand Food and Grocery Council</p>	<p>Noted.</p> <p>1. This is not an error. The definition of 'average quantity' only applies to the term when it is in relation to a substance in a food, not to the average quantity of food. Therefore, no</p>

Issue	Raised by	FSANZ response (including any amendments to drafting)
<p>quantity’.</p> <p>The substituted subsection retains one occurrence in subsection 1.2.8—6(1)(d)(ii) of ‘*average quantity’. We wonder if this was purposeful or an error.</p> <p>2. We also note that ‘*average quantity’ has been retained in subsections 1.2.8—7(5), 1.2.8—7(6) and 1.2.8—14(1)(a). We wondered if the intention was to use ‘*average quantity’ in the first occurrence of any subsequent subsections which appears to be the case for subsections 2.9.5—13, 2.9.5—14(4) and 2.9.5—15(5) but not in Subsection 2.10.3—5 which contains three occurrences of ‘average quantity’ with only the first being ‘*average quantity’. This still means that 1.2.8—6(1) is anomalous.</p>		<p>asterisks should be placed before references to ‘average quantity of food’.</p> <p>2. Clause 1.1.1—16 makes it clear that an asterisk usually identifies the first occurrence of a term in a section (if not divided into subsections), subsection or definition. Amendments have been made to make Standard 1.2.8 consistent with this rule.</p> <p>Also, the asterisk in paragraph 1.2.8—14(1)(a) for average quantity should be omitted, for the same reason as outlined in point 1 above. See new item [21] included in the approved draft variation.</p>
<p>Amendment made by Item [40] of the Schedule of the draft variation</p> <p>Supports the draft amendment and recommends additional amendments to capitalise the first three entries directly under the title ‘5.4 Icings and frostings’ in Schedule 15—5.</p>	<p>New Zealand Food and Grocery Council</p>	<p>Noted.</p> <p>Agree. See new item [41] included in the approved draft variation.</p>
<p>Amendment made by Item [23] of the Schedule of the draft variation</p> <p>Supports the draft amendment</p> <p>Recommended updating the URL to https://www.mpi.govt.nz/food-business/seafood-processing-storage-testing/fish-names-labelling-requirements/ as the URL listed redirects to it.</p>	<p>New Zealand Food Safety (New Zealand Ministry for Primary Industries)</p>	<p>Noted.</p> <p>Agree. See amended item [23] in the approved draft variation.</p>

2.2 Risk assessment

All of the issues considered are relatively minor in nature, and fall into the following broad categories:

- correcting minor errors and omissions, and improving clarity**

The amendments include the correction of minor errors and omissions to format, text and punctuation, as well to improve the clarity of some text. See Items [3] to [21], [23], [25] to [28], [31], [36], part of [37], [38] to [51], and [54] in the Schedule of the approved draft variation.

- **updating references**
References to the names of standards or cross-references within the Code have been amended or updated. See Items [22], [24], [52], [53] and [55] in the Schedule of the approved draft variation.
- **updating material from international sources**
References in the Code to various international publication have been replaced with a reference to a more recent edition of that publication. See items [1], [2], [29], [30], [32] to [35] and part of [37] in the Schedule of the approved draft variation.

FSANZ has confidence in the specialist abilities of the internationally recognised scientific organisation that produces each publication. FSANZ is satisfied that appropriate and rigorous assessments have been carried out by this body to ensure that there are no public health or safety issues and that the publication can be incorporated by reference in the Code.

No potential public health and safety concerns have been identified.

2.3 Risk management

The proposed amendments will ensure that the Code remains current and that errors and inconsistencies are addressed. As mentioned above, the proposed amendments are minor in nature and no potential public health and safety concerns have been identified.

2.4 Risk communication

2.4.1 Consultation

Consultation is a key part of FSANZ's standards development process. FSANZ acknowledges the time taken by individuals and organisations to make submissions on this Proposal.

Public submissions were invited on draft variations which were released for public comment between 3 October 2020 and 27 November 2020. The call for submissions was notified via the Notification Circular, Food Standards News and on the FSANZ website. Subscribers and interested parties were also notified.

Three submissions were received. All submissions were considered by the FSANZ Board.

2.5 FSANZ Act assessment requirements

2.5.1 Section 59

2.5.1.1 Consideration of costs and benefits

Section 59 requires FSANZ to have regard to whether the direct and indirect benefits that would arise from a food regulatory measure developed as a result of this Proposal will outweigh the costs to the community, Government or industry that would arise from the development of that measure.

Proposal P1051 aims to correct typographical errors; resolve formatting issues; and update references.

As stated above, some references in the Code become superseded as the documents they refer to are updated. The draft variation includes new and updated specifications for some

permitted substances (such as food additives). This ensures the Code is updated with the latest internationally recognised specifications. Without the draft variation, the Code will remain out of date.

The draft variation is not expected to impose costs on the community, industry or Government that are additional to those already generated by compliance with or enforcement of the current Code.

For this reason, one can reasonably conclude that the benefits to the community, Government or industry that will arise from the draft variation will outweigh the costs that would arise from the development of that measure.

2.5.1.2 Other measures

There are no other measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the Proposal.

2.5.1.3 Any relevant New Zealand standards

The majority of the Standards affected by the amendments apply in both Australia and New Zealand. The exceptions are the amendments to Standards 3.2.3 and 4.2.3 which are Australia only Standards.

2.5.1.4 Any other relevant matters

Other relevant matters are considered below.

2.5.2 Subsection 18(1)

FSANZ has also considered the three objectives in subsection 18(1) of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) during the assessment. FSANZ is satisfied that the approved draft variation will not have any impact on measures in place for:

- the protection of public health and safety
- the provision of adequate information relating to food to enable consumers to make informed choices
- the prevention of misleading or deceptive conduct.

2.5.3 Subsection 18(2) considerations

FSANZ has also had 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
- any written policy guidelines formulated by the Food Ministers' Meeting².

² Formerly referred to as the Australia and New Zealand Ministerial Forum on Food Regulation.

In relation to the promotion of consistency between domestic and international food standards, several amendments update or include references to internationally recognised publications. The other issues are not considered relevant to this Proposal.

Attachments

- A. Approved draft variation to the Australia New Zealand Food Standards Code
- B. Explanatory Statement
- C. Draft variation to the Australia New Zealand Food Standards Code (call for submissions)

Attachment A – Approved draft variation to the *Australia New Zealand Food Standards Code*



Food Standards (Proposal P1051 – Code Revision (2020)) 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 [To be completed by the Delegate]

[Insert name of Delegate]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 2020. 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 P1051 – Code Revision (2020)) 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.

SCHEDULE

Standard 1.1.1 – Structure of the Code and general provisions

[1] Paragraph 1.1.1—5(1)(b)

Omit '2014', substitute '2019'.

Standard 1.1.2 – Definitions used throughout the Code

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

Omit

- (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 2018 (edition 28);

substitute

- (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 2019 (edition 29);

[3] Subsection 1.1.2—3(2)

Insert in alphabetical order

wheat flour includes wholemeal wheat flour.

Standard 1.2.1 – Requirements to have labels or otherwise provide information

[4] Subsection 1.2.1—2(3)

Omit 'caterers', substitute '*caterers'.

[5] Paragraph 1.2.1—6(1)(c)

Omit 'fruit', substitute '*fruit'.

[6] Paragraph 1.2.1—8(1)(b)

Omit 'lot', substitute '*lot'.

[7] Paragraph 1.2.1—8(1)(d)

Omit 'warning', substitute '*warning'.

[8] Paragraph 1.2.1—8(1)(k)

Omit 'foods', substitute '*foods'.

[9] Subparagraph 1.2.1—8(1)(v)(i)

Omit 'average', substitute '*average'.

[10] Subsection 1.2.1—8(3)

Omit 'warning', substitute '*warning'.

[11] Section 1.2.1—10

Omit 'caterer', substitute '*caterer'.

[12] Paragraph 1.2.1—12(3)(b)

Omit 'fruit', substitute '*fruit'.

[13] Subsection 1.2.1—15(b)

Omit 'lot', substitute '*lot'.

[14] Subsection 1.2.1—15(c)

Omit 'warning', substitute '*warning'.

[15] Paragraph 1.2.1—20(2)(b)

Omit 'lot', substitute '*lot'.

[16] Paragraph 1.2.1—20(3)(c)

Omit the first occurrence of 'transportation', substitute '*transportation'.

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

[17] Subsection 1.2.5—3(3)

Omit 'small package', substitute '*small package'.

Standard 1.2.8 – Nutrition information requirements

[18] Section 1.2.8—4

Insert in alphabetical order

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.

[19] Subsection 1.2.8—6(1)

Repeal the subsection, substitute

- (1) A nutrition information panel must contain the following information:
 - (a) the number of servings in the package, expressed as either:
 - (i) the number of servings of the food; or
 - (ii) if the weight or the volume of the food as packaged is variable—the number of servings of the food per kilogram, or other unit as appropriate;
 - (b) the average quantity of the food in a serving expressed in:
 - (i) for a solid or semi-solid food—grams; or
 - (ii) for a beverage or other liquid food—millilitres;
 - (c) the *unit quantity of the food;
 - (d) for a serving of the food and a unit quantity of the food:
 - (i) the *average energy content expressed in kilojoules or both in kilojoules and in kilocalories; and
 - (ii) the *average quantity of
 - (A) protein, carbohydrate, sugars, fat and,
 - (B) subject to subsection (4), saturated fatty acids, expressed in grams; and
 - (iii) the average quantity of sodium, expressed in milligrams or both

- milligrams and millimoles; and
- (iv) the name and the average quantity of any other nutrient or *biologically active substance in respect of which a *claim requiring nutrition information is made, expressed in grams, milligrams, micrograms or other units as appropriate;
- (e) any other matter this Code requires to be included.

[20] Subsection 1.2.8—6(7)

Omit '*unavailable carbohydrate', substitute 'unavailable carbohydrate'.

[21] Paragraph 1.2.8—14(1)(a)

Omit '*average quantity', substitute 'average quantity'.

Standard 1.6.1 – Microbiological limits in food

[22] Subsection 1.6.1—3(2)

Omit 'S27—3', substitute 'S27—4'.

Standard 2.2.3 – Fish and fish products

[23] Note 3

Omit the Note, substitute

Note 3 This Code does not define specific names for fish.

1. An Australian Fish Names Standard (AS SSA 5300) has been published which provides guidance on standard fish names to be used in Australia. Hard copies of the Standard are available at https://infostore.saiglobal.com/en-au/Standards/AS-5300-2015-111200_SAIG_AS_AS_232622/.
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 at <https://www.mpi.govt.nz/food-business/seafood-processing-storage-testing/fish-names-labelling-requirements/>.

Standard 2.6.3 – Kava

[24] Section 2.6.3—4 Note

Omit '1.2.1—9(4)(c)', substitute '1.2.1—9(3)(f)'

Standard 3.2.3 – Food Premises and Equipment

[25] Subsection 3.2.3—3(d)

Omit '(ii) not provide harbourage for pests', substitute '(iii) not provide harbourage for pests'.

Standard 4.2.3 – Primary production and processing standard for meat

[26] Table of Provisions

Omit 'sail', substitute 'sale'.

Standard 4.2.4 – Primary production and processing standard for dairy products

[27] Subsection 4.2.4—15(1) Editorial note

Omit 'The provision concerning an applicable law of a State or Territory is a temporary one and will be reviewed by FSANZ under another proposal.'

Schedule 2 – Units of measurement

[28] Section S2—2

Insert in the table in alphabetical order

MU

mouse unit

Schedule 3 – Identity and purity

[29] Paragraph S3—2(1)(b)

Omit

(xii) FAO JECFA Monographs 20 (2017); or substitute

(xii) FAO JECFA Monographs 20 (2017);

(xiii) FAO JECFA Monographs 22 (2018);

(xiv) FAO JECFA Monographs 23 (2019); or

[30] Paragraph S3—2(1)(c)

Repeal the subsection, substitute

(c) United States Pharmacopeial Convention (2020) Food chemicals codex. 12th ed, United States Pharmacopeial Convention, Rockville, MD; or

[31] Subsection S3—2(2)

Omit

rebaudioside M section S3—31

resistant maltodextrins section S3—26

Salmonella phage preparation (S16 and FO1a) section S3—33

steviol glycoside mixtures including rebaudioside M section S3—32

steviol glycosides from fermentation section S3—39

steviol glycosides from *Stevia rebaudiana* Bertoni section S3—35

substitute

resistant maltodextrins section S3—26

Salmonella phage preparation (S16 and FO1a) section S3—33

steviol glycosides from fermentation section S3—39

steviol glycosides produced by enzymatic conversion section S3—35

[32] Subsection S3—3(b)

Repeal the subsection, substitute

United States Pharmacopeial Convention (2020) United States Pharmacopeia (43) and the National Formulary (38), (USP 43-NF 38). United States Pharmacopeial Convention, Rockville, MD;

[33] Subsection S3—3(i)

Omit '8th Edition (2007)', substitute '9th Edition (2018)'.

[34] Section S3—31

Repeal the section.

[35] Section S3—32

Repeal the section.

[36] Section S3—35

Omit the heading, substitute

S3—35 Specification for steviol glycosides produced by enzymatic conversion

[37] Subsection S3—35(2)

Repeal the subsection, substitute

- (2) The preparation must be obtained from the leaves of the *Stevia rebaudiana* Bertoni plant by using one of the following processes:
- (a) by enzymatic conversion of purified stevia leaf extract to produce rebaudioside M using protein engineered enzymes that:
 - (i) contain both UDP-glucosyltransferase and sucrose synthase (EC 2.4.1.13) components; and
 - (ii) are sourced from both of the following:
 - (a) a *Pichia pastoris* strain expressing UGT-A;
 - (b) a *Pichia pastoris* strain expressing both UGT-B1 and UGT-B2;
 - (b) by enzymatic conversion of purified stevia leaf extract to produce rebaudioside D using a protein engineered enzyme that:
 - (i) contains both UDP-glucosyltransferase and sucrose synthase (EC 2.4.1.13) components; and
 - (ii) is sourced from *Pichia pastoris* strain UGT-A;
 - (c) by enzymatic conversion of purified stevia leaf extract to produce one or more prescribed rebaudiosides using a combination of enzymes that contains:
 - (i) a UDP-glucosyltransferase from *Stevia rebaudiana* sourced from *Escherichia coli*; and
 - (ii) a UDP-glucosyltransferase from *Solanum lycopersicum* sourced from *Escherichia coli*; and
 - (iii) a sucrose synthase (EC 2.4.1.13) sourced from *Escherichia coli*.
 - (d) by enzymatic conversion of purified stevia leaf extract to produce rebaudioside E using a protein engineered enzyme that:
 - (i) contains both of the following components:
 - (A) UDP-glucosyltransferase; and
 - (B) sucrose synthase (EC 2.4.1.13); and
 - (ii) is sourced from *Pichia pastoris* strain UGT-A.

Schedule 11 – Calculation of values for nutrition information panel

[38] Subsection S11—2(1)

Omit 'average amount', substitute '*average quantity'.

Schedule 13 – Nutrition information required for food in small packages

[39] Section 13—2

Omit 'sugars and dietary', substitute 'sugars and dietary fibre'.

Schedule 15 – Substances that may be used as food additives

[40] Section 15—5 (table entry 2.2.2 Oil emulsions (<80% oil))

Omit

2.2.2	Oil emulsions (<80% oil) additives permitted at GMP colourings permitted at GMP colourings permitted to a maximum level
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substitute

2.2.2 Oil emulsions (<80% oil)
 Additives permitted at GMP
 Colourings permitted at GMP
 Colourings permitted to a maximum level

[41] Section 15—5 (table entry 5.4 Icings and frostings)

Omit

5.4 Icings and frostings
 additives permitted at GMP
 colourings permitted at GMP
 colourings permitted to a maximum level

substitute

5.4 Icings and frostings
 Additives permitted at GMP
 Colourings permitted at GMP
 Colourings permitted to a maximum level

[42] Section 15—5 (table entry 13.2 Food for infants)

Omit

307b	Tocopherols concentrate, mixed	300	Of fat
322	Lecithin	15 000	
330 331 332 333	Citric acid and sodium, potassium, calcium and ammonium citrates	GMP	
380			
307b	Tocopherols concentrate, mixed	300	Of fat
322	Lecithin	15 000	
330 331 332 333	Citric acid and sodium, potassium, calcium and ammonium citrates	GMP	
380			

substitute

307b	Tocopherols concentrate, mixed	300	Of fat
322	Lecithin	15 000	
330 331 332 333	Citric acid and sodium, potassium, calcium and ammonium citrates	GMP	
380			

Schedule 18 – Processing aids

[43] Subsection S18—9(3)

Omit '(EC 2.4.1.17)' wherever occurring.

Schedule 19 – Maximum levels of contaminants and natural toxicants

[44] Paragraph S19—7(2)(c)

Omit '(a) of', substitute '(a) or'.

Schedule 20 – Maximum residue limits

[45] Section S20—3 (table entry for Agvet chemical: Aminocyclopyrachlor)

Omit 'Mammalian fats [except poultry fats]', substitute 'Mammalian fats [except milk fats]'.

[46] Section S20—3 table

Omit

<i>Agvet chemical: Clodinafop-propargyl</i>	
<i>Permitted residue: Clodinafop-propargyl</i>	

Edible offal (mammalian)	*0.05
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Eggs	*0.05
Meat (mammalian)	*0.05
Milks	*0.05
Poultry, edible offal of	*0.05
Poultry meat	*0.05
Wheat	*0.05

Agvet chemical: Clodinafop acid

Permitted residue: (R)-2-[4-(5-chloro-3-fluoro-2-pyridinyloxy) phenoxy] propanoic acid

Edible offal (mammalian)	*0.1
Eggs	*0.1
Meat (mammalian)	*0.1
Milks	*0.1
Poultry, edible offal of	*0.1
Poultry meat	*0.1
Wheat	*0.1

substitute

Agvet chemical: Clodinafop acid

Permitted residue: (R)-2-[4-(5-chloro-3-fluoro-2-pyridinyloxy) phenoxy] propanoic acid

Edible offal (mammalian)	*0.1
Eggs	*0.1
Meat (mammalian)	*0.1
Milks	*0.1
Poultry, edible offal of	*0.1
Poultry meat	*0.1
Wheat	*0.1

Agvet chemical: Clodinafop-propargyl

Permitted residue: Clodinafop-propargyl

Edible offal (mammalian)	*0.05
Eggs	*0.05
Meat (mammalian)	*0.05
Milks	*0.05
Poultry, edible offal of	*0.05
Poultry meat	*0.05
Wheat	*0.05

[47] Section S20—3 (table entry for Agvet chemical: Difenoconazole)

Omit

Carrot	2
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substitute

Carrot	0.2
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[48] Section S20—3 (table entry for Agvet chemical: Flumioxazin)

Omit

Cherries	0.02
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[49] Section S20—3 (table entry for Agvet chemical: Kresoxim-methyl)

Omit

Egg plant	0.6
Fruiting vegetables, cucurbits	0.4
Egg plant	0.6

substitute

Egg plant	0.6
Fruiting vegetables, cucurbits	0.4

[50] Section S20—3 (table entry for Agvet chemical: Phosphine)

Omit

Citrus fruits	0.01
---------------	------

substitute

Citrus fruits	*0.01
---------------	-------

[51] Section S20—3 (table entry for Agvet chemical: Pirimicarb)

Omit

All other foods except animal food commodities	0.05
--	------

substitute

All other foods except animal food commodities	0.05
--	------

Schedule 25 – Permitted novel foods

[52] Section S25—2 (table entry for *Phytosterols, phytostanols and their esters)

Omit

3. May only be added to breakfast cereals, not including breakfast cereal bars, if:
 - (a) the total fibre content of the breakfast cereal is no less than 3 g/50 g; and
 - (b) the breakfast cereal contains no more than 30 g/100 g of total sugars; and
 - (c) the *total plant sterol equivalents content is the prescribed amount.
- 3A. For the purposes of condition 3(c) above:
 - (a) the prescribed amount during the exclusive use period is:
 - (i) for breakfast cereals sold under the brands *Sanitarium Health and Wellbeing* or *Weet-Bix* – an amount that is no less than 0.5 g per serving and no more than 2.2 g per serving; and
 - (ii) for all other breakfast cereals - an amount that is no less than 15 g/kg and no more than 19 g/kg; and
 - (b) the prescribed amount after the end of the exclusive use period is an amount that is no less than 0.5 g per serving and no more than 2.2 g per serving.
- 3B. For the purposes of condition 3A above, **exclusive use period** means the period commencing on the date of gazettal of the *Food Standards (Application A1134 – Increased Concentration of Plant Sterols in Breakfast Cereals) Variation* and ending 15 months after that date.

substitute

3. May only be added to breakfast cereals, not including breakfast cereal bars, if:
 - (a) the total fibre content of the breakfast cereal is no less than 3 g/50 g; and
 - (b) the breakfast cereal contains no more than 30 g/100 g of total sugars; and
 - (c) the *total plant sterol equivalents content is no less than 0.5 g per serving and no more than 2.2 g per serving.

Schedule 27 – Microbiological limits in food

[53] Note 1

Omit 'section 1.6.1—2 and subsection 1.6.1—3(2)', substitute 'sections 1.6.1—2 and 1.6.1—4, and subsection 1.6.1—3(2)'.

[54] Section S27—4

Omit 'For section 1.6.1—2, the table is:' from under the heading.

Schedule 29 – Special purpose foods

[55] Section S29—7

Omit

S29—7 Permitted forms of vitamins, minerals and electrolytes in infant formula products, food for infants and food for special medical purposes

For sections 2.9.1—12, 2.9.2—4, 2.9.2—5, 2.9.2—6 and 2.9.5—6, the table is:

substitute

S29—7 Permitted forms of vitamins, minerals and electrolytes in infant formula products, food for infants, formulated meal replacements (vitamin K) and food for special medical purposes

For sections 2.9.1—12, 2.9.2—4, 2.9.2—5, 2.9.2—6, 2.9.3—3(2)(c)(iii) and 2.9.5—6, the table is:

Attachment B – Draft Explanatory Statement

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

The Authority prepared Proposal P1051 to make a range of minor amendments to the Code. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft variation with amendments.

Following consideration by the Food Ministers' Meeting³, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the standard or draft variation of a standard.

Section 94 of the FSANZ Act specifies that a standard, or a variation of a standard, in relation to which a notice is published under section 92 is a legislative instrument, but is not subject to parliamentary disallowance or sunseting under the *Legislation Act 2003*.

2. Purpose

Minor typographical and grammatical errors, formatting and cross referencing issues are identified in the Code from time-to-time. References in the Code also become superseded as the documents they refer to are updated. The Authority approved this variation to resolve a number of such issues.

3. Documents incorporated by reference

The approved draft variation does not incorporate any documents by reference not already incorporated into the current Code. It updates the following existing references in the Code (see sections 6.3 below):

- United States Code of Federal Regulations;
- Generally Recognised as Safe (GRAS) lists of flavouring substances published by the Flavour and Extract Manufacturers' Association of the United States;
- Combined Compendium of Food Additive Specifications, FAO JECFA Monographs 1 (2005), Food and Agriculture Organisation of the United Nations, Rome;
- United States Pharmacopeial Convention (2020) Food chemicals codex. 12th ed, United States Pharmacopeial Convention, Rockville, MD;
- United States Pharmacopeial Convention (2020) United States Pharmacopeia (43) and the National Formulary (38), (USP 43-NF 38), United States Pharmacopeial Convention, Rockville, MD; and
- Specifications and Standards for Food Additives, 9th Edition (2018), Ministry of Health and Welfare (Japan).

³ Formerly referred to as the Australia and New Zealand Ministerial Forum on Food Regulation.

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1051 included one round of consultation following an assessment and the preparation of draft variations to a number of Standards and an associated assessment summary. Submissions were called for on 3 October 2020 for a four-week consultation period.

A Regulation Impact Statement was not required because the variation is likely to have a minor impact on business and individuals.

5. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 94 of the FSANZ Act.

6. Variations

6.1 Correcting minor errors and omissions

Items [3] to [21], [23], [25] to [28], [31], [36], part of [37], [38] to [51], and [54] of the Schedule to the approved draft variation include amendments to correct minor errors and omissions to format, text and punctuation, as well to improve the clarity of some text.

6.2 Updating references

Items [22], [24], [52], [53] and [55] of the Schedule to the approved draft variation include amendments to correct cross-references within the Code.

6.3 Updating material from international sources

Items [1], [2], [29], [30], [32] to [35] and part of [37] of the Schedule update references to international publications.

Attachment C – Draft variation to the *Australia New Zealand Food Standards Code* (call for submissions)



Food Standards (Proposal P1051 – Code Revision (2020)) 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 [To be completed by the Delegate]

[Insert name of Delegate]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 2020. 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 P1051 – Code Revision (2020)) 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.

SCHEDULE

Standard 1.1.1 – Structure of the Code and general provisions

[1] Subsection 1.1.1—5(1)(b)

Omit '2014', substitute '2019'.

Standard 1.1.2 – Definitions used throughout the Code

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

Omit

- (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 2018 (edition 28);

substitute

- (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 2019 (edition 29);

[3] Subsection 1.1.2—3(2)

Insert in alphabetical order

wheat flour includes wholemeal wheat flour.

Standard 1.2.1 – Requirements to have labels or otherwise provide information

[4] Subsection 1.2.1—2(3)

Omit 'caterers', substitute '*caterers'.

[5] Subsection 1.2.1—6(1)(c)

Omit 'fruit', substitute '*fruit'.

[6] Subsection 1.2.1—8(1)(b)

Omit 'lot', substitute '*lot'.

[7] Subsection 1.2.1—8(1)(d)

Omit 'warning', substitute '*warning'.

[8] Subsection 1.2.1—8(1)(k)

Omit 'foods', substitute '*foods'.

[9] Subsection 1.2.1—8(1)(v)(i)

Omit 'average', substitute '*average'.

[10] Subsection 1.2.1—8(3)

Omit 'warning', substitute '*warning'.

[11] Section 1.2.1—10

Omit 'caterer', substitute '*caterer'.

[12] Subsection 1.2.1—12(3)(b)

Omit 'fruit', substitute '*fruit'.

[13] Subsection 1.2.1—15(b)

Omit 'lot', substitute '*lot'.

[14] Subsection 1.2.1—15(c)

Omit 'warning', substitute '*warning'.

[15] Subsection 1.2.1—20(2)(b)

Omit 'lot', substitute '*lot'.

[16] Subsection 1.2.1—20(3)(c)

Omit 'transportation', substitute '*transportation'.

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

[17] Subsection 1.2.5—3(3)

Omit 'small package', substitute '*small package'.

Standard 1.2.8 – Nutrition information requirements

[18] Section 1.2.8—4

Insert in alphabetical order

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.

[19] Subsection 1.2.8—6(1)

Repeal the subsection, substitute

- (1) A nutrition information panel must contain the following information:
 - (a) the number of servings in the package, expressed as either:
 - (i) the number of servings of the food; or
 - (ii) if the weight or the volume of the food as packaged is variable—the number of servings of the food per kilogram, or other unit as appropriate;
 - (b) the average quantity of the food in a serving expressed in:
 - (i) for a solid or semi-solid food—grams; or
 - (ii) for a beverage or other liquid food—millilitres;
 - (c) the *unit quantity of the food;
 - (d) for a serving of the food and a unit quantity of the food:
 - (i) the *average energy content expressed in kilojoules or both in kilojoules and in kilocalories; and
 - (ii) the *average quantity of
 - (A) protein, carbohydrate, sugars, fat and,
 - (B) subject to subsection (4), saturated fatty acids, expressed in grams; and
 - (iii) the average quantity of sodium, expressed in milligrams or both

- milligrams and millimoles; and
- (iv) the name and the average quantity of any other nutrient or *biologically active substance in respect of which a *claim requiring nutrition information is made, expressed in grams, milligrams, micrograms or other units as appropriate;
- (e) any other matter this Code requires to be included.

[20] Subsection 1.2.8—6(7)

Omit '*unavailable carbohydrate', substitute 'unavailable carbohydrate'.

Standard 1.6.1 – Microbiological limits in food

[21] Subsection 1.6.1—3(2)

Omit 'S27—3', substitute 'S27—4'.

Standard 2.2.3 – Fish and fish products

[22] Note 3

Omit the Note, substitute

Note 3 This Code does not define specific names for fish.

1. An Australian Fish Names Standard (AS SSA 5300) has been published which provides guidance on standard fish names to be used in Australia. Hard copies of the Standard are available at https://infostore.saiglobal.com/en-au/Standards/AS-5300-2015-111200_SAIG_AS_AS_232622/.
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 at <https://www.mpi.govt.nz/processing/seafood/seafood-processing/fish-names-labelling-requirements/>

Standard 2.6.3 – Kava

[23] Section 2.6.3—4 Note

Omit '1.2.1—9(4)(c)', substitute '1.2.1—9(3)(f)'

Standard 3.2.3 – Food Premises and Equipment

[24] Subsection 3.2.3—3(d)

Omit '(ii) not provide harbourage for pests', substitute '(iii) not provide harbourage for pests'.

Standard 4.2.3 – Primary production and processing standard for meat

[25] Table of Provisions

Omit 'sail', substitute 'sale'.

Standard 4.2.4 – Primary production and processing standard for dairy products

[26] Subsection 4.2.4—15(1) Editorial note

Omit 'The provision concerning an applicable law of a State or Territory is a temporary one and will be reviewed by FSANZ under another proposal.'.

Schedule 2 – Units of measurement

[27] Section S2—2

Insert in the table in alphabetical order

MU

mouse unit

Schedule 3 – Identity and purity

[28] Subsection S3—2(1)(b)

Omit

(xii) FAO JECFA Monographs 20 (2017); or
substitute

(xii) FAO JECFA Monographs 20 (2017);
(xiii) FAO JECFA Monographs 22 (2018);
(xiv) FAO JECFA Monographs 23 (2019); or

[29] Subsection S3—2(1)(c)

Repeal the subsection, substitute

(c) United States Pharmacopeial Convention (2020) Food chemicals codex. 12th
ed, United States Pharmacopeial Convention, Rockville, MD; or

[30] Subsection S3—2(2)

Omit

rebaudioside M	section S3—31
resistant maltodextrins	section S3—26
<i>Salmonella</i> phage preparation (S16 and FO1a)	section S3—33
steviol glycoside mixtures including rebaudioside M	section S3—32
steviol glycosides from fermentation	section S3—39
steviol glycosides from <i>Stevia rebaudiana</i> Bertoni	section S3—35

substitute

resistant maltodextrins	section S3—26
<i>Salmonella</i> phage preparation (S16 and FO1a)	section S3—33
steviol glycosides from fermentation	section S3—39
steviol glycosides produced by enzymatic conversion	section S3—35

[31] Subsection S3—3(b)

Repeal the subsection, substitute

United States Pharmacopeial Convention (2020) United States Pharmacopeia (43) and the National Formulary (38), (USP 43-NF 38). United States Pharmacopeial Convention, Rockville, MD;

[32] Subsection S3—3(i)

Omit '8th Edition (2007)', substitute '9th Edition (2018)'.

[33] Section S3—31

Repeal the section.

[34] Section S3—32

Repeal the section.

[35] Section S3—35

Omit the heading, substitute

S3—35 Specification for steviol glycosides produced by enzymatic

conversion

[36] Subsection S3—35(2)

Repeal the subsection, substitute

- (2) The preparation must be obtained from the leaves of the *Stevia rebaudiana* Bertoni plant by using one of the following processes:
- (a) by enzymatic conversion of purified stevia leaf extract to produce rebaudioside M using protein engineered enzymes that:
 - (i) contain both UDP-glucosyltransferase and sucrose synthase (EC 2.4.1.13) components; and
 - (ii) are sourced from both of the following:
 - (a) a *Pichia pastoris* strain expressing UGT-A;
 - (b) a *Pichia pastoris* strain expressing both UGT-B1 and UGT-B2;
 - (b) by enzymatic conversion of purified stevia leaf extract to produce rebaudioside D using a protein engineered enzyme that:
 - (i) contains both UDP-glucosyltransferase and sucrose synthase (EC 2.4.1.13) components; and
 - (ii) is sourced from *Pichia pastoris* strain UGT-A;
 - (c) by enzymatic conversion of purified stevia leaf extract to produce one or more prescribed rebaudiosides using a combination of enzymes that contains:
 - (i) a UDP-glucosyltransferase from *Stevia rebaudiana* sourced from *Escherichia coli*; and
 - (ii) a UDP-glucosyltransferase from *Solanum lycopersicum* sourced from *Escherichia coli*; and
 - (iii) a sucrose synthase (EC 2.4.1.13) sourced from *Escherichia coli*.

Schedule 11 – Calculation of values for nutrition information panel

[37] Subsection S11—2(1)

Omit 'average amount', substitute '*average quantity'.

Schedule 13 – Nutrition information required for food in small packages

[38] Section 13—2

Omit 'sugars and dietary', substitute 'sugars and dietary fibre'.

Schedule 15 – Substances that may be used as food additives

[39] Section 15—5 (table entry 2.2.2 Oil emulsions (<80% oil))

Omit

2.2.2	Oil emulsions (<80% oil)
	additives permitted at GMP
	colourings permitted at GMP
	colourings permitted to a maximum level

substitute

2.2.2	Oil emulsions (<80% oil)
	Additives permitted at GMP
	Colourings permitted at GMP
	Colourings permitted to a maximum level

[40] Section 15—5 (table entry 13.2 Food for infants)

Omit

307b	Tocopherols concentrate, mixed	300	Of fat
322	Lecithin	15 000	
330 331 332 333	Citric acid and sodium, potassium, calcium and ammonium citrates	GMP	
380			
307b	Tocopherols concentrate, mixed	300	Of fat
322	Lecithin	15 000	
330 331 332 333	Citric acid and sodium, potassium, calcium and ammonium citrates	GMP	
380			
substitute			
307b	Tocopherols concentrate, mixed	300	Of fat
322	Lecithin	15 000	
330 331 332 333	Citric acid and sodium, potassium, calcium and ammonium citrates	GMP	
380			

Schedule 18 – Processing aids

[41] Subsection S18—9(3)

Omit '(EC 2.4.1.17)' wherever occurring.

Schedule 19 – Maximum levels of contaminants and natural toxicants

[42] Subsection S19—7(2)(c)

Omit '(a) of', substitute '(a) or'.

Schedule 20 – Maximum residue limits

[43] Section S20—3 (table entry for Agvet chemical: Aminocyclopyrachlor)

Omit 'Mammalian fats [except poultry fats]', substitute 'Mammalian fats [except milk fats]'.

[44] Section S20—3 table

Omit

Agvet chemical: Clodinafop-propargyl

Permitted residue: Clodinafop-propargyl

Edible offal (mammalian)	*0.05
Eggs	*0.05
Meat (mammalian)	*0.05
Milks	*0.05
Poultry, edible offal of	*0.05
Poultry meat	*0.05
Wheat	*0.05

Agvet chemical: Clodinafop acid

Permitted residue: (R)-2-[4-(5-chloro-3-fluoro-2-pyridinyloxy) phenoxy] propanoic acid

Edible offal (mammalian)	*0.1
Eggs	*0.1
Meat (mammalian)	*0.1
Milks	*0.1
Poultry, edible offal of	*0.1
Poultry meat	*0.1
Wheat	*0.1

substitute

Agvet chemical: Clodinafop acid

Permitted residue: (R)-2-[4-(5-chloro-3-fluoro-2-pyridinyloxy) phenoxy] propanoic acid

Edible offal (mammalian)	*0.1
Eggs	*0.1
Meat (mammalian)	*0.1
Milks	*0.1
Poultry, edible offal of	*0.1
Poultry meat	*0.1
Wheat	*0.1

Agvet chemical: Clodinafop-propargyl

Permitted residue: Clodinafop-propargyl

Edible offal (mammalian)	*0.05
Eggs	*0.05
Meat (mammalian)	*0.05
Milks	*0.05
Poultry, edible offal of	*0.05
Poultry meat	*0.05
Wheat	*0.05

[45] Section S20—3 (table entry for Agvet chemical: Difenoconazole)

Omit

Carrot 2

substitute

Carrot 0.2

[46] Section S20—3 (table entry for Agvet chemical: Flumioxazin)

Omit

Cherries 0.02

[47] Section S20—3 (table entry for Agvet chemical: Kresoxim-methyl)

Omit

Egg plant 0.6

Fruiting vegetables, cucurbits 0.4

Egg plant 0.6

substitute

Egg plant 0.6

Fruiting vegetables, cucurbits 0.4

[48] Section S20—3 (table entry for Agvet chemical: Phosphine)

Omit

Citrus fruits 0.01

substitute

Citrus fruits *0.01

[49] Section S20—3 (table entry for Agvet chemical: Pirimicarb)

Omit

All other foods except animal food commodities	0.05
--	------

substitute

All other foods except animal food commodities	0.05
--	------

Schedule 25 – Permitted novel foods

[50] Section S25—2 (table entry for *Phytosterols, phytosteranols and their esters)

Omit

3. May only be added to breakfast cereals, not including breakfast cereal bars, if:
 - (a) the total fibre content of the breakfast cereal is no less than 3 g/50 g; and
 - (b) the breakfast cereal contains no more than 30 g/100 g of total sugars; and
 - (c) the *total plant sterol equivalents content is the prescribed amount.
- 3A. For the purposes of condition 3(c) above:
 - (a) the prescribed amount during the exclusive use period is:
 - (i) for breakfast cereals sold under the brands *Sanitarium Health and Wellbeing* or *Weet-Bix* – an amount that is no less than 0.5 g per serving and no more than 2.2 g per serving; and
 - (ii) for all other breakfast cereals - an amount that is no less than 15 g/kg and no more than 19 g/kg; and
 - (b) the prescribed amount after the end of the exclusive use period is an amount that is no less than 0.5 g per serving and no more than 2.2 g per serving.
- 3B. For the purposes of condition 3A above, **exclusive use period** means the period commencing on the date of gazettal of the *Food Standards (Application A1134 – Increased Concentration of Plant Sterols in Breakfast Cereals) Variation* and ending 15 months after that date.

substitute

3. May only be added to breakfast cereals, not including breakfast cereal bars, if:
 - (a) the total fibre content of the breakfast cereal is no less than 3 g/50 g; and
 - (b) the breakfast cereal contains no more than 30 g/100 g of total sugars; and
 - (c) the *total plant sterol equivalents content is no less than 0.5 g per serving and no more than 2.2 g per serving.

Schedule 27 – Microbiological limits in food

[51] Note 1

Omit 'section 1.6.1—2 and subsection 1.6.1—3(2)', substitute 'sections 1.6.1—2 and 1.6.1—4, and subsection 1.6.1—3(2)'.

[52] Section S27—4

Omit 'For section 1.6.1—2, the table is:' from under the heading.

Schedule 29 – Special purpose foods

[53] Section S29—7

Omit

S29—7 Permitted forms of vitamins, minerals and electrolytes in infant formula products, food for infants and food for special medical purposes

For sections 2.9.1—12, 2.9.2—4, 2.9.2—5, 2.9.2—6 and 2.9.5—6, the table is:

substitute

S29—7 Permitted forms of vitamins, minerals and electrolytes in infant formula products, food for infants, formulated meal replacements (vitamin K) and food for special medical

purposes

For sections 2.9.1—12, 2.9.2—4, 2.9.2—5, 2.9.2—6, 2.9.3—3(2)(c)(iii) and 2.9.5—6, the table is: