

29 June 2015
[13–15]

Call for submissions – Proposal P1038

Vitamin & Mineral Claims & Sodium Claims about Food containing Alcohol

FSANZ has assessed a proposal prepared to address an inconsistency in the conditions for vitamin and mineral claims between Standards 1.2.7 – Nutrition, Health and Related Claims and 1.3.2 – Vitamins and Minerals and to permit nutrition content claims about salt and sodium in relation to foods (excluding beverages) containing more than 1.15% alcohol by volume. FSANZ has prepared a draft food regulatory measure. Pursuant to section 61 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act), FSANZ now calls for submissions to assist consideration of the draft food regulatory measure.

For information about making a submission, visit the FSANZ website at [information for submitters](#).

All submissions on applications and proposals will be published on our website. We will not publish material that is provided in-confidence, but will record that such information is held. In-confidence submissions may be subject to release under the provisions of the *Freedom of Information Act 1991*. Submissions will be published as soon as possible after the end of the public comment period. Where large numbers of documents are involved, FSANZ will make these available on CD, rather than on the website.

Under section 114 of the FSANZ Act, some information provided to FSANZ cannot be disclosed. More information about the disclosure of confidential commercial information is available on the FSANZ website at [information for submitters](#).

Submissions should be made in writing; be marked clearly with the word ‘Submission’ and quote the correct project number and name. While FSANZ accepts submissions in hard copy to our offices, it is more convenient and quicker to receive submissions electronically through the FSANZ website via the link on [documents for public comment](#). You can also email your submission directly to submissions@foodstandards.gov.au.

There is no need to send a hard copy of your submission if you have submitted it by email or via the FSANZ website. FSANZ endeavours to formally acknowledge receipt of submissions within 3 business days.

DEADLINE FOR SUBMISSIONS: 6pm (Canberra time) 10 August 2015

Submissions received after this date will not be considered unless an extension had been given before the closing date. Extensions will only be granted due to extraordinary circumstances during the submission period. Any agreed extension will be notified on the FSANZ website and will apply to all submitters.

Questions about making submissions or the application process can be sent to standards.management@foodstandards.gov.au.

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Executive summary

Standard 1.2.7 – Nutrition, Health and Related Claims, which regulates nutrition content and health claims, was included in the *Australia New Zealand Food Standards Code* on 18 January 2013. This Proposal was prepared to consider two issues that have been brought to the attention of FSANZ since the Standard was gazetted.

Vitamin and mineral claims

The gazettal of Standard 1.2.7 created a discrepancy between the requirements for nutrition content claims about vitamins and minerals in Standard 1.2.7 and Standard 1.3.2 – Vitamins and Minerals. This is because the minimum amounts required for making claims about vitamins and minerals (Standard 1.2.7) rely on the actual serving size of the food, whereas the maximum amount permitted to be claimed (Standard 1.3.2) is based on a prescribed reference quantity. When a food has a serving size smaller than the prescribed reference quantity, for some vitamin and mineral claims it is impossible to meet the minimum amount required to make a claim and not exceed the maximum amount permitted to be claimed.

For example, for the following yoghurt, it is impossible to meet both a minimum of 1 µg and a maximum of 0.47 µg of vitamin D per serving:

Serving size determined by supplier:	70 g
Reference quantity specified in Standard 1.3.2:	150 g
Maximum amount of vitamin D permitted to be claimed (Standard 1.3.2):	1 µg/150 g which scales down to 0.47 µg in 70 g
Amount of vitamin D required to make a claim (Standard 1.2.7)	1 µg per 70 g serving

To address this discrepancy, FSANZ proposes to amend the general claim conditions in Standard 1.2.7 to permit claims about vitamin and mineral content to be based on the prescribed reference quantity, but only if the maximum claimable amount is less than the minimum amount required to make a claim (due to the serving size specified by the food supplier). This means that vitamin and mineral content claims about foods fortified with vitamins or minerals that are affected by the discrepancy would continue to be permitted as they were before Standard 1.2.7 was gazetted.

The proposed amendment would not apply to other vitamin and mineral content claims (including on the same food), where the maximum claimable amount is more than the minimum amount required to make a claim, i.e. for these claims, the minimum amount required to make the claim would remain on a per serving basis. The proposed amendment would also not apply to the conditions for claims using a specific descriptor such as *good source* or *high*.

Sodium claims about food containing alcohol

When Standard 1.2.7 becomes mandatory on 18 January 2016, nutrition content claims about sodium and salt in relation to food containing more than 1.15% alcohol by volume (including beverages) will be prohibited. Until then however, under the transitional arrangements for Standard 1.2.7, nutrition content claims about sodium and salt content in relation to such foods are permitted.

Some foods containing alcohol, particularly soy sauces, are currently marketed with nutrition content claims about sodium or salt (usually *reduced sodium/salt*) in both Australia and New Zealand under the regulatory arrangements for claims in place before gazettal of Standard 1.2.7. Submitters to the Call for Submissions for P1035 – Gluten Claims about Foods containing Alcohol, requested that in addition to permitting gluten claims, sodium and salt content claims should be permitted on foods containing alcohol. Of particular concern was soy sauce, as certain fermented soy sauce products containing more than 1.15% alcohol by volume currently make sodium or salt claims.

FSANZ is proposing to amend Standard 1.2.7 so that nutrition content claims about sodium and salt in relation to food (but not beverages) containing more than 1.15% alcohol by volume continue to be permitted after January 2016. This will enable suppliers to continue to alert consumers to *reduced* or *low sodium/salt* varieties of these foods. This approach is supported by the national dietary guidelines, which recommend limiting intake of foods containing added salt and choosing lower/low sodium options.

The prohibition of nutrition content claims about sodium or salt in relation to beverages containing more than 1.15% alcohol by volume and health claims about all foods containing more than 1.15% alcohol by volume (including beverages) will remain in Standard 1.2.7, in accordance with the *Policy Guideline on Nutrition, Health and Related Claims*¹.

Revised Code

A revision of the Code via Proposal P1025 – Code Revision, will replace the existing Code on 1 March 2016. FSANZ has therefore provided draft amendments to both the current and the revised Code, to implement the changes outlined above.

¹ The Policy Guideline is available at: <http://www.foodstandards.gov.au/code/fofr/fofrpolicy/pages/default.aspx>

1 Introduction

This Proposal has been prepared to consider the following two issues associated with the gazettal of Standard 1.2.7 – Nutrition, Health and Related Claims:

- a discrepancy in the conditions for vitamin and mineral content claims about foods fortified with vitamins or minerals, between Standards 1.2.7 and 1.3.2 – Vitamins and Minerals
- permission for nutrition content claims about sodium and salt in relation to foods containing more than 1.15% alcohol by volume.

Standard 1.2.7 sets out the claims that can be made on labels or in advertisements about the nutritional content of food (described as nutrition content claims) or the relationship between a food or a property of food and a health effect (described as health claims). Standard 1.2.7 was developed under Proposal P293 – Nutrition, Health & Related Claims. It was gazetted in January 2013 and will take full effect when the transition period ends in January 2016.

1.1 Procedure for assessment

The Proposal is being assessed under the General Procedure.

2 Vitamin and mineral nutrition content claims

2.1 The current Standard

A revision of the Code via Proposal P1025 – Code Revision, will replace the existing Code on 1 March 2016. The references in this section are applicable to both the current and revised Codes.

Standard 1.2.7 describes the conditions under which nutrition content claims can be made, including general claim conditions for the minimum amount of a vitamin or mineral required in a serving of food to make a nutrition content claim (e.g. *source* or *contains* type claims) i.e. a serving of the food must contain at least 10% of the regulatory RDI (Recommended Dietary Intake) or ESADDI (Estimated Safe and Adequate Daily Dietary Intake)² for that vitamin or mineral. The serving size is determined by the supplier of the food.

For health claims about vitamins and minerals that are pre-approved in the Code, the food must meet the general claim conditions for making a nutrition content claim about the vitamin or mineral that is the subject of the claim (as outlined above).

For nutrition content claims that use a descriptor to describe the level of the vitamin or mineral in the food, e.g. *good source*, a serving of the food must contain no less than 25% of the regulatory RDI or ESADDI for that vitamin or mineral. The conditions for *good source* claims are not under consideration in this Proposal as the discrepancy is not expected to occur in relation to these kinds of claims.

² The relevant regulatory RDIs and ESADDIs are prescribed in the existing Code in Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions and in Schedule 1 of the revised Code.

Standard 1.3.2 regulates the addition of vitamins and minerals to foods. For vitamins and minerals that are permitted to be added to food according to this Standard, the Standard also sets the maximum amount of that vitamin or mineral that can be claimed, per *reference quantity* of the food (ranging from 10–50% of the RDI)³. Reference quantities are prescribed in the Code, for example, the prescribed reference quantity for yoghurt is 150 g.

There are also permissions in Part 2.9 (Special Purpose Foods) for certain foods to contain added vitamins and minerals. The claim conditions for these foods are prescribed in Part 2.9 and are based on serving or one-day quantities rather than prescribed reference quantities and are therefore not being considered in this Proposal.

2.2 Reasons for preparing the Proposal

The minimum amount required to make a nutrition content claim was previously set at 10% of the RDI or ESADDI per **reference quantity** but has been changed to 10% of the RDI or ESADDI per **servicing** in Standard 1.2.7 (Schedule 1). As outlined above, the maximum amount of a vitamin or mineral that can be claimed is based on a **reference quantity**. For foods fortified with vitamins or minerals according to permissions in Standard 1.3.2, the reference quantity is prescribed and for other foods, the reference quantity is a ‘normal serving’. The change from a reference quantity basis to a per serving basis in Standard 1.2.7 therefore only affects these fortified foods. The intended effect of the amendment was to prevent nutrition content claims about vitamins or minerals being made on foods containing less than 10% RDI or ESADDI per serving.

Since gazettal of Standard 1.2.7, FSANZ has been advised that, with the change from a reference quantity to a per serving basis, it is impossible for some vitamin and mineral claims to meet the minimum amount required to make a nutrition content claim (Standard 1.2.7) and not exceed the maximum claimable amount (Standard 1.3.2). This can sometimes occur for fortified foods where the serving size specified by the supplier is smaller than the prescribed reference quantity. This is because the minimum amounts required for making claims about vitamins and minerals in Standard 1.2.7 rely on the serving size of the food, whereas the maximum amounts permitted to be claimed are based on prescribed reference quantities.

Dairy Australia has provided an example of the problem as follows.

<i>Yoghurt fortified with vitamin D</i>	
Serving size determined by supplier:	70 g
Reference quantity for yoghurt specified in Standard 1.3.2:	150 g
Maximum amount of vitamin D permitted to be claimed (10% RDI per reference quantity) (Standard 1.3.2):	1 µg/150 g which scales down to 0.47 µg in 70 g
Amount of vitamin D required to make a claim (10% RDI per serving) (Standard 1.2.7):	1 µg per 70 g serving
It is impossible to meet both a minimum of 1 µg and a maximum of 0.47 µg per serving.	

³ If a vitamin or mineral has been added to a food, a claim must not be made that the food contains that vitamin or mineral, both added or naturally present, in greater proportions than the specified maximum claim per reference quantity of the food (Standard 1.3.2, clause 4 of the existing Code and Section 1.3.2—4 of the revised Code).

2.3 Summary of the assessment

2.3.1 Risk assessment

FSANZ has concluded that a scientific risk assessment was not required for this part of the proposal, given the purpose and effect of the amendments. That is, they are intended to remove a discrepancy within the Code and thereby permit claims that can currently be made to continue to be made, provided certain conditions are met. The amendments proposed only make a change to the permission to make vitamin and mineral claims in limited circumstances. They do not affect permissions to fortify foods with vitamins and minerals and, as such do not directly affect intake.

2.3.2 Number of claims affected

FSANZ considers that the number of claims likely to be affected by the discrepancy in conditions for vitamin and mineral content claims about fortified foods between Standards 1.2.7 and 1.3.2 is limited, for the following reasons:

- The problem can only occur for claims about foods that are permitted to be fortified with vitamins or minerals in Standard 1.3.2 and when the claim is about a vitamin or mineral that has been added to the food, as these are the only claims for which a maximum claim and reference quantity are prescribed.
- The problem occurs only where foods permitted to be fortified with vitamins or minerals have:
 - a prescribed maximum claimable amount of a vitamin(s) or mineral(s)
 - a serving size (nominated by the supplier) that is smaller than the prescribed reference quantity in Standard 1.3.2.
- Furthermore, the likelihood of the problem occurring then depends on how low the maximum claimable amount is, i.e. it is more likely to occur for claims about vitamins and minerals with a maximum claimable amount of only 10–15% of the RDI, as at this amount, unless the serving size is either the same as the reference quantity (if 10% RDI) or slightly smaller (if 15% RDI), it would not be possible to meet both criteria.
- For some foods with a maximum claimable amount of only 10–15% of the RDI, the prescribed reference quantity is relatively small and it may not be practical or necessary for the food supplier to specify a smaller serving size. Therefore the problem will not occur.

The above points are illustrated in Table 1, which lists the vitamins and minerals with a maximum claimable amount of 10–15% of the RDI and the corresponding foods and reference quantities prescribed in Standard 1.3.2. For example, for margarine, the only vitamins and minerals with a maximum claimable amount of 10–15% of the RDI are vitamins A and D and the prescribed reference quantity is 10 g. For the problem to occur, the serving size of margarine specified by the supplier would need to be less than 10 g.

Dairy Australia has informed FSANZ that, currently within the dairy industry, the issue affects mainly single serve yoghurts and dairy desserts.

Table 1: Vitamins and minerals with a maximum claimable amount of 10–15% of the RDI, with corresponding foods and prescribed reference quantities (Standard 1.3.2)

Vitamin or mineral	Food	Prescribed reference quantity
Zinc	Biscuits, cereal flours	35 g
	Breads	50 g
	Pasta	35 g (uncooked, dried)
Vitamin A	Dried milk	200 mL (after reconstitution)
	Cream and cream products (no more than 30% milkfat)	30 mL
Vitamin A, Vitamin D	Modified milks and skim milk	200 mL
	Cheese and cheese products	25 g
	Yoghurts, dairy desserts	150 g
Vitamin A, vitamin D	Butter, edible oil spreads, edible oils and margarine	10g
Iron	Extracts of meat, vegetables or yeast and foods containing no less than 800g/kg of these extracts	5 g
Vitamin A, vitamin D and iodine	Beverages derived from legumes	200 mL
Thiamin, riboflavin	Analogues of meat derived from legumes	100 g
Vitamin A, vitamin B12, vitamin D, folate and iodine	Analogues of yoghurt and dairy desserts derived from legumes	150 g
Vitamin A, riboflavin and vitamin B12	Analogues of ice cream derived from legumes	75 g
Vitamin A, riboflavin, vitamin B12, vitamin D and phosphorus	Analogues of cheese derived from legumes	25 g
Vitamin A, vitamin D and iodine	Beverages derived from cereals	200 mL

2.3.3 Proposed solution

FSANZ proposes amending the general claim conditions in Standard 1.2.7 to permit claims about vitamin and mineral content to be based on the prescribed reference quantity, but only where the maximum claimable amount (Standard 1.3.2) **is less** than the minimum amount required to make a claim (due to the serving size specified by the food supplier). This would be achieved by an amendment to the general claim conditions for making *source* or *contains* type claims⁴. For these claims, this approach would retain the conditions for making vitamin and mineral claims that were in place before Standard 1.2.7 was gazetted.

The proposed amendment would also apply to health claims about vitamins and minerals that are pre-approved in the Code, when the food must meet the general claim conditions for making a nutrition content claim about the vitamin or mineral that is the subject of the health claim. The proposed amendment would not apply to other vitamin and mineral content claims (including on the same food), where the maximum claimable amount **is more** than the minimum amount required to make a claim, i.e. for these claims, the minimum amount required to make the claim would remain on a per serving basis.

⁴ Column 2 of Schedule 1 of Standard 1.2.7 of the existing Code and Column 2, S4—3 of Schedule 4 of the revised Code.

EXAMPLE

Yoghurt fortified with vitamin D and with calcium		
Serving size determined by supplier: 70 g		
Reference quantity prescribed in Standard 1.3.2: 150 g		
	Vitamin D claim	Calcium claim
Current conditions		
Maximum claim permitted (Standard 1.3.2)	1 µg/reference quantity = 1 µg/150 g (scales down to 0.47 µg per 70 g)	320mg/reference quantity = 320 mg/150g (scales down to 150 mg per 70 g)
Minimum amount required to make a claim (Standard 1.2.7)	1 µg/serving = 1 µg/70 g	80 mg/serving = 80 mg/70 g
Proposed solution		
Maximum claim permitted (Standard 1.3.2)	Remains the same, i.e. 1 µg/150 g	Remains the same, i.e. 320 mg/150g
Minimum amount required to make a claim (Standard 1.2.7)	As it is impossible to meet both a minimum of 1 µg and maximum of 0.47 µg per serving, the amount required to make a claim is based on a per reference quantity: 1 µg/150g reference quantity	Remains the same (i.e. on a per serving basis), as it is possible to meet both a minimum of 80 mg and maximum of 150 mg per serving: 80 mg/70 g serving

For most claims, the current approach in Standard 1.2.7 (where claims are based on a serving) will remain unchanged. However in the limited cases (see section 2.3.2) where the maximum claimable amount is less than the minimum amount required to make a claim, claims will continue to be permitted as they were before Standard 1.2.7 was gazetted. This approach avoids the need to amend provisions relating to maximum claimable amounts, which were established according to principles now encapsulated in the Ministerial Policy Guideline: *Fortification of food with vitamins and minerals*⁵.

FSANZ is not proposing to amend the conditions for nutrition content claims using a specific descriptor such as *good source* or *high*⁶ as part of this Proposal as the discrepancy that has occurred with other claims is not expected to occur in relation to these kinds of claims.

2.4 FSANZ Act assessment requirements

When assessing this part of the Proposal and the subsequent development of a food regulatory measure, FSANZ has had regard to the following matters in section 59 of the FSANZ Act:

2.4.1 Section 59

2.4.1.1 Cost benefit analysis

The Office of Best Practice Regulation (OBPR) has advised FSANZ that the proposed changes are of a minor nature and no further analysis (in the form of a Regulation Impact Statement) is required (OBPR ID 19217).

⁵ The Policy Guideline is at <http://www.foodstandards.gov.au/code/fofr/fofrpolicy/pages/default.aspx>

⁶ Column 4 of Schedule 1 of Standard 1.2.7 of the existing Code and Column 4, S4—3 of Schedule 4 of the revised Code.

Affected parties include the following:

Industry: The draft variation will maintain the conditions for making vitamin and mineral claims that were in place before Standard 1.2.7 was gazetted, for a limited number of vitamin and mineral claims. It will benefit suppliers of certain fortified foods, as they will continue to be able to make claims about vitamins and minerals that would have otherwise been affected by the discrepancy between the conditions in Standards 1.2.7 and 1.3.2.

Consumers: The draft variation will enable consumers to continue to make informed choices about the vitamin and mineral content of fortified foods in the limited circumstances whereby claims would have been prohibited by the discrepancy in the conditions in Standards 1.2.7 and 1.3.2.

Government: The draft variation means that, in limited circumstances, nutrition content claims about vitamins and minerals will continue to be permitted as they were before Standard 1.2.7 was developed. Enforcement agencies will need to be aware of the alternative claim conditions when undertaking enforcement activities.

2.4.1.2 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.

2.4.1.3 Any relevant New Zealand standards

The draft variations amend joint Australia New Zealand standards.

2.4.1.4 Any other relevant matters

See sections 2.4.2 and 2.4.3 below.

2.4.2 Subsection 18(1)

FSANZ has also considered the three objectives in subsection 18(1) of the FSANZ Act during the assessment.

2.4.2.1 Protection of public health and safety

The draft variation makes a change to the permission to make vitamin and mineral claims in limited circumstances, rather than to the actual permissions to fortify with vitamins and minerals and therefore is not expected to impact on the protection of public health and safety.

2.4.2.2 The provision of adequate information relating to food to enable consumers to make informed choices

The proposed amendment will permit vitamin and mineral claims to continue to be made about fortified foods if they meet specified conditions, thus enabling consumers to continue to make informed choices about the vitamin and mineral content of fortified foods.

2.4.2.3 The prevention of misleading or deceptive conduct

The change in claim conditions in Standard 1.2.7 from a reference quantity basis to a per serving basis was to prevent nutrition content claims about vitamins or minerals being made on foods containing less than 10% or 25% (depending on the wording of the claim) of the RDI or ESADDI per serving.

It was considered that such claims could potentially be misleading as to an actual serving of the food being a *source* or *good source* respectively, of the claimed vitamin or mineral.

The amendment proposed in this Proposal will permit certain vitamin and mineral claims to revert back to being based on a reference quantity. FSANZ considers that this will affect a limited range of claims only (see section 2.3.2) and allow claims that were permitted before the gazettal of Standard 1.2.7 to continue to be made. This supports the continuation of claims for foods that are permitted to be fortified with vitamins and minerals, irrespective of serving size. For claims about other vitamins and minerals not affected by the discrepancy between the two Standards, the minimum amount required to make a claim will be on a per serving basis.

2.4.3 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**

FSANZ has concluded that a scientific risk analysis was not considered necessary given the purpose and effect of the proposed amendments (see section 2.3.1).

- **the promotion of consistency between domestic and international food standards**

The conditions for making nutrition content claims about vitamins and minerals are inconsistent across the European Union, Canada and the United States of America and in Codex Alimentarius. It is therefore not possible to achieve consistency with these international food standards.

- **the desirability of an efficient and internationally competitive food industry**

The draft variations are expected to have a positive effect on the efficiency and international competitiveness of the food industry, as they will permit existing claims to continue to be made.

- **the promotion of fair trading in food**

If the proposed changes are not made, the suppliers of affected foods will be disadvantaged as they will not be able to add more of the vitamin or mineral in order to meet claim requirements, while catering for a range of serving sizes. Increasing serving size in order to meet claim requirements is not always appropriate (as it may not reflect a normal serving) or may not meet the needs of consumers (e.g. small single serve yoghurts).

- **any written policy guidelines formulated by the Ministerial Council⁷**

In December 2003, the Ministerial Council released the *Policy Guideline on Nutrition, Health and Related Claims*⁸. The Policy Guideline sets out the policy principles underpinning the regulation of nutrition content claims (and health claims) and aims to permit claims and encourage industry to innovate, whilst ensuring consumers are not misled.

⁷ Now known as the Australia and New Zealand Ministerial Forum on Food Regulation (convening as the Australia and New Zealand Food Regulation Ministerial Council)

⁸ The Policy Guideline is available at: <http://www.foodstandards.gov.au/code/fofr/fofrpolicy/pages/default.aspx>

These policy principles have been taken into consideration while considering the proposed amendments.

The Ministerial Policy Guideline: *Fortification of food with vitamins and minerals* was also taken into consideration, as indicated in section 2.3.3.

3 Sodium claims about foods containing alcohol

3.1 The current Standard

A revision of the Code via Proposal P1025 – Code Revision, will replace the existing Code on 1 March 2016. The references in this section are applicable to both the existing and the revised Codes.

Standard 1.2.7 includes a general prohibition about nutrition content claims (except for claims about energy or carbohydrate content) and health claims for foods containing more than 1.15% alcohol by volume. This prohibits nutrition content claims and health claims about both sodium and salt, in relation to foods containing more than 1.15% alcohol by volume.

Standard 1.2.8 requires that a nutrition information panel is provided on foods containing alcohol, such as soy sauce (an exemption is provided for beverages containing no less than 0.5% alcohol by volume). The average quantity of sodium is required to be declared in the panel and when a nutrition content claim about sodium is made, the average quantity of potassium must also be declared in the panel.

3.2 Reasons for preparing the proposal

When Standard 1.2.7 becomes mandatory in January 2016, sodium and salt claims about foods that contain more than 1.15% alcohol by volume will no longer be permitted. Consumers will no longer be alerted to *reduced* or *low* sodium or salt varieties of these foods.

Submitters to the Call for Submissions for P1035 – Gluten Claims about Foods containing Alcohol, requested that in addition to permitting gluten claims, sodium and salt claims should be permitted on foods containing alcohol. Of particular concern was soy sauce, as certain fermented soy sauce products containing more than 1.15% alcohol by volume are currently marketed with sodium or salt claims (often *reduced* sodium/salt) under the regulatory arrangements for claims in place before Standard 1.2.7 was gazetted.

The prohibition of nutrition content claims (and health claims) about food containing more than 1.15% alcohol by volume was considered when Standard 1.2.7 was developed under Proposal P293. At that time, in accordance with the Policy Guideline on Nutrition, Health and Related Claims⁹, FSANZ restricted the use of claims that attribute a health benefit on foods containing alcohol. Nutrition content claims about carbohydrate and energy were permitted to continue as they were already established in the marketplace. Although permitted, FSANZ was not aware that sodium/salt content claims in relation to food containing alcohol were in the marketplace at that time and therefore nutrition content claims about sodium and salt were inadvertently caught within the general prohibition of nutrition content claims and not specifically considered.

⁹ The Policy Guideline is available at: <http://www.foodstandards.gov.au/code/fofr/fofrpolicy/pages/default.aspx>

The prohibition of sodium and salt claims currently applies to alcoholic beverages and other foods containing more than 1.15% alcohol by volume, e.g. liqueur chocolates, essences, naturally fermented sauces such as soy sauce.

3.3 Summary of the assessment

3.3.1 Risk Assessment

The Australian Dietary Guidelines recommend limiting intake of foods and drinks containing added salt and reading labels to choose lower sodium options among similar foods (National Health & Medical Research Council 2013). These recommendations are based on the assessment that there is convincing evidence that decreasing sodium intake decreases blood pressure in normotensive adults. This conclusion has also been supported by the World Health Organization (2012). New Zealand dietary guidelines recommend preparing foods or choosing pre-prepared foods, drinks and snacks that are low in salt (Ministry of Health, 2003).

The guidelines also recommend limiting alcohol intake. One standard drink of alcohol is regarded as 10 g ethanol. In the case of a product such as soy sauce, a typical single serve sachet of 6 g (FSANZ, 2014) would provide less than 0.1 g alcohol and a tablespoon would provide around 0.2 g alcohol.

3.3.2 Risk Management

FSANZ proposes amending Standard 1.2.7 to permit **nutrition content claims** about sodium and salt in relation to foods (not beverages) containing alcohol. Foods marketed with sodium or salt claims are consistent with national dietary guidelines as they assist consumers to 'choose lower sodium options' or foods that are 'low in salt'.

The permission for sodium and salt nutrition content claims will not be extended to alcoholic beverages. The prohibition on **health claims** about sodium and salt in relation to food (including beverages) containing more than 1.15% alcohol by volume in Standard 1.2.7 will also be retained. For these foods (including beverages), this maintains the approach in Standard 1.2.7, as developed under Proposal P293 (see section 3.2).

The requirements for providing a nutrition information panel on foods (not beverages) containing alcohol, including the requirement to declare potassium when a nutrition content claim about sodium is made, will remain.

The proposed amendments to Standard 1.2.7 referred to above do not reflect the amendments to be made to that Standard by Proposal P1035 – Gluten Claims about Foods containing Alcohol. Proposal P1035 has been approved by FSANZ and is under consideration by the Australia and New Zealand Ministerial Forum on Food Regulation. The amendments proposed for this Proposal will be updated if Proposal P1035 is gazetted before they take effect.

3.4 FSANZ Act assessment requirements

When assessing this Proposal and the subsequent development of a food regulatory measure, FSANZ has had regard to the following matters in section 59 of the FSANZ Act:

3.4.1 Section 59

3.4.1.1 Cost benefit analysis

The Office of Best Practice Regulation (OBPR) has advised FSANZ that the proposed changes are of a minor nature and no further analysis (in the form of a Regulation Impact Statement) is required (OBPR ID 19217).

Affected parties include the following:

Industry: The draft variation will benefit suppliers of food (not including beverages) containing more than 1.15% alcohol by volume as they will continue to be permitted to make claims about *reduced* or *low* sodium or salt. There are not expected to be any costs resulting from this Proposal to suppliers. The requirement to declare potassium in the nutrition information panel when a claim about sodium or salt is made remains the same.

Consumers: The draft variation will enable consumers to continue to make informed choices about *reduced* or *low* sodium or salt in foods containing more than 1.15% alcohol by volume.

Government: There are no additional costs to government as the draft variation maintains the position before the gazettal of Standard 1.2.7. There will be no increase in enforcement costs to ensure that food containing alcohol ceases making sodium or salt content claims.

3.4.1.2 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.

3.4.1.3 Any relevant New Zealand standards

The draft variations amend joint Australia New Zealand standards.

3.4.1.4 Any other relevant matters

There are no other relevant matters.

3.4.2 Subsection 18(1)

FSANZ has also considered the three objectives in subsection 18(1) of the FSANZ Act during the assessment.

3.4.2.1 Protection of public health and safety

The proposed approach, to permit nutrition content claims about sodium or salt in relation to foods containing alcohol, but not alcoholic beverages, is consistent with this objective. The prohibition of most nutrition content and health claims about foods containing more than 1.15% alcohol by volume in Standard 1.2.7 was developed given social issues regarding the abuse of alcohol.

3.4.2.2 The provision of adequate information relating to food to enable consumers to make informed choices

The proposed amendment will permit nutrition content claims about sodium and salt to continue to be made in relation to foods containing more than 1.15% alcohol by volume, thus enabling consumers to continue to make informed choices about *reduced* or *low* sodium or salt varieties of these foods.

3.4.2.3 The prevention of misleading or deceptive conduct

This objective is not considered relevant to the issues being considered in this Proposal. Note that the conditions applying to sodium and salt nutrition content claims in Standard 1.2.7 will apply.

3.4.3 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**

Scientific risk analysis appropriate for the issues being considered has been carried out.

- **the promotion of consistency between domestic and international food standards**

Nutrition content claims about sodium are generally permitted in relation to foods containing alcohol in international food standards. Permission to make such claims in Australia and New Zealand is therefore consistent with these international food standards.

- **the desirability of an efficient and internationally competitive food industry**

The draft variations are expected to have a positive effect on the efficiency and international competitiveness of the food industry, as they will permit existing claims to continue to be made.

- **the promotion of fair trading in food**

Submitters to the Call for Submissions for P1035 noted that the prohibition of sodium claims places naturally brewed soy sauce at a disadvantage to those that are not naturally brewed (therefore not containing alcohol), for no reason of health consequence. The proposed amendment means fermented varieties of soy sauce and similar fermented foods will continue to be subject to same conditions and permissions of the non-fermented varieties.

- **any written policy guidelines formulated by the Ministerial Council¹⁰**

In December 2003, the Ministerial Council released the *Policy Guideline on Nutrition, Health and Related Claims*¹¹. The Policy Guideline sets out the policy principles underpinning the regulation of nutrition content claims (and health claims) and aims to permit claims and encourage industry to innovate, whilst ensuring consumers are not misled.

Overarching policy principles include that claims can be made providing *the eligibility criteria, including qualifying and/or disqualifying criteria (and any excluded categories of foods, such as alcohol and infant foods), are complied with; and the claim is socially responsible and does not promote irresponsible food consumption patterns.*

These policy principles have been taken into consideration whilst considering the proposed amendments, as outlined in the sections above.

¹⁰ Now known as the Australia and New Zealand Ministerial Forum on Food Regulation (convening as the Australia and New Zealand Food Regulation Ministerial Council)

¹¹ The Policy Guideline is available at: <http://www.foodstandards.gov.au/code/fofr/fofrpolicy/pages/default.aspx>

4 Risk communication

4.1 Consultation

Consultation is a key part of FSANZ's standards development process. The process by which FSANZ considers standard development matters is open, accountable, consultative and transparent. Public submissions are called for to obtain the views of interested parties on issues raised by this Proposal and the effects of regulatory options. Every submission is reviewed by FSANZ staff, who examine the issues identified and prepare a response to those issues. While not all comments may be taken on board during the process, they are valued and all contribute to the rigour of our assessment.

FSANZ develops communication plans to ensure stakeholders are aware of proposed changes to the Code. All calls for submissions are notified via the FSANZ Notification Circular, media release, FSANZ's social media tools and Food Standards News.

The draft variation will be considered for approval by the FSANZ Board taking into account public comments received following this call for submissions. Anyone who is an interested party or who makes a submission will be notified at each stage of the assessment. Subscribers and interested parties are also notified by email about the availability of reports for public comment.

If the draft variation to the Code is approved by the FSANZ Board, that decision will be notified to the Australia and New Zealand Ministerial Forum on Food Regulation. If the decision is not subject to a request for a review, stakeholders will be notified of the gazettal of the variation to the Code in the national press and on the FSANZ website.

4.2 World Trade Organization (WTO)

As members of the World Trade Organization (WTO), Australia and New Zealand are obliged to notify WTO members where proposed mandatory regulatory measures are inconsistent with any existing or imminent international standards and the proposed measure may have a significant effect on trade.

There are relevant international standards, however amending the Code as outlined in sections 2.3.3 and 3.3.2 is unlikely to have a significant effect on international trade. This is because the proposed amendments allow claims to continue to be made, under the same conditions that were in place before Standard 1.2.7 was gazetted. Therefore, a notification to the WTO under Australia's and New Zealand's obligations under the WTO Technical Barriers to Trade or Application of Sanitary and Phytosanitary Measures Agreement was not considered necessary.

5 Draft variation

The draft variation to the current Code and related draft explanatory statement are at Attachment A. The variation is intended to take effect on gazettal.

The draft variation to the revised Code (see section 5.1.1) and related draft explanatory statement are at Attachment B. The variation is intended to take effect on 1 March 2016.

An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislative Instruments (FRLI).

5.1 Transitional arrangements

The transition arrangements already in place for Standard 1.2.7 will apply. The transition period for Standard 1.2.7 ends in January 2016.

FSANZ considers that no additional transitional arrangements are required for this Proposal on the basis that the draft variation will take effect before the transitional arrangements for Standard 1.2.7 end.

5.1.1 Transitional arrangements for Code Revision

FSANZ has completed a review of the Code undertaken under Proposal P1025¹² in order to improve its clarity and legal efficacy. Following approval of the revision and Ministerial consideration, the new Code will commence on 1 March 2016 (following gazettal on 10 April 2015 and registration on the Federal Register of Legislative Instruments). The current Code will also be repealed on this date. The approved variation at Attachment B varies the revised Code on 1 March 2016 to ensure that the revised Code is consistent with the current Code as amended by the variation at Attachment A.

6 References

Food Standards Australia New Zealand (2014) AUSNUT 2011–13 – Australian Food Composition Database. Canberra: FSANZ. Available at www.foodstandards.gov.au

National Health & Medical Research Council (NHMRC) (2013) Eat for health. Australian dietary guidelines. Available at https://www.nhmrc.gov.au/files/nhmrc/publications/attachments/n55_australian_dietary_guidelines_130530.pdf. Accessed 3 June 2015

Ministry of Health (2003) Food and Nutrition Guidelines for Healthy Adults: A background paper. Wellington. Ministry of Health.

World Health Organization (2012) Effect of reduced sodium intake on blood pressure, renal function, blood lipids and other potential adverse effects. ISBN 978 92 4 150491 1. Available at www.who.int

Attachments

- A. Draft variation to the *Australia New Zealand Food Standards Code* and related Explanatory Statement
- B. Draft variation to the revised *Australia New Zealand Food Standards Code* (commencing 1 March 2016) and related Explanatory Statement

¹² <http://www.foodstandards.gov.au/code/proposals/Pages/proposalp1025coderev5755.aspx>

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



Food Standards (P1038 – Vitamin & Mineral Claims & Sodium Claims about Food containing Alcohol) 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 Standards Management Officer]

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

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC **XX on XX Month 20XX**. 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 (P1038 – Vitamin & Mineral Claims & Sodium Claims about Food containing Alcohol) Variation*.

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

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

3 Commencement

The Schedule commences on the date of gazettal.

SCHEDULE

[1] **Standard 1.2.7** is varied by

[1.1] inserting in clause 2 in alphabetical order, the following definitions

“**maximum claimable amount** means the maximum claimable amount as prescribed by clause 4 or clause 5 of Standard 1.3.2.”

“**reference quantity** means the reference quantity specified for the food in Column 2 of the Table to clause 3 of Standard 1.3.2.”

[1.2] deleting paragraph 3(b), substituting

“(b) a food that contains more than 1.15% alcohol by volume, other than a nutrition content claim about –

- i) energy content or carbohydrate content; or
- ii) salt or sodium content about a food that is not a beverage; or”

[1.3] deleting the following from Column 2 of the entry for Vitamin or mineral (not including potassium or sodium) in Schedule 1

“

	<p>(a) the vitamin or mineral is mentioned in column 1 of the Schedule to Standard 1.1.1; and</p> <p>(b) a serving of the food contains at least 10% of the RDI or ESADDI for that vitamin or mineral; and</p> <p>(c) a claim is not for more of the particular vitamin or mineral than the maximum claimable amount as prescribed by clause 4 or clause 5 of Standard 1.3.2; and</p>		
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	(d) the food is not a food standardised by Standard 2.6.4, Standard 2.9.2, Standard 2.9.3 or Standard 2.9.4.		
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and substituting –

	<p>(a) the vitamin or mineral is mentioned in column 1 of the Schedule to Standard 1.1.1; and</p> <p>(b) a serving of the food contains at least 10% of the RDI or ESADDI for that vitamin or mineral; and</p> <p>(c) a claim is not for more of the particular vitamin or mineral than the maximum claimable amount; and</p> <p>(d) the food is not a food standardised by Standard 2.6.4, Standard 2.9.2, Standard 2.9.3 or Standard 2.9.4.</p> <p>Paragraph (b) does not apply where –</p> <p>(i) a maximum claimable amount applies in relation to the vitamin or mineral; and</p> <p>(ii) the serving size is less than the reference quantity; and</p> <p>(iii) the reference quantity contains at least 10% of the RDI or ESADDI for the vitamin or mineral; and</p> <p>(iv) the maximum claimable amount is less than 10% of the RDI or ESADDI per serving.</p>		
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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.

FSANZ prepared Proposal P1038 to address an inconsistency in the conditions for vitamin and mineral claims between Standards 1.2.7 and 1.3.2 and to permit nutrition content claims about salt and sodium in relation to foods (excluding beverages) containing more than 1.15% alcohol by volume. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft Standard.

2. Purpose

The Authority has prepared a draft variation to rectify a discrepancy in the conditions required to make a nutrition content claim about a vitamin or mineral in food. The current conditions require a minimum of 10% of the RDI or ESADDI per serving of the food. The amended conditions will allow a minimum of 10% of the RDI or ESADDI per reference quantity of the food, if certain conditions are met.

The Authority has also prepared a draft variation to Standard 1.2.7 to permit nutrition content claims about salt and sodium in relation to food (not beverages) containing more than 1.15% alcohol by volume.

3. Documents incorporated by reference

The variations to food regulatory measures do not incorporate any documents by reference.

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1038 will include one round of public consultation following an assessment and the preparation of a draft Standard and associated report.

A Regulation Impact Statement was not required because the proposed variations to Standard 1.2.7 are of a minor nature.

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. Variation

Item [1] of the Schedule amends Standard 1.2.7.

Item [1.1] inserts definitions for maximum claimable amount and reference quantity into clause 2. These defined terms are then used in the amended entry for 'Vitamin or mineral (not including potassium or sodium)' in Schedule 1. The term 'maximum claimable amount' is defined to mean the maximum amount of a vitamin or mineral that can be claimed, as prescribed by clause 4 or clause 5 of Standard 1.3.2. The term 'reference quantity' is defined to mean the reference quantity specified for the food in Column 2 of the Table to clause 3 of Standard 1.3.2.

Item [1.2] amends paragraph 3(b) of Standard 1.2.7 by inserting a reference to salt or sodium content about a food that is not a beverage. The effect of the amendment is to permit nutrition content claims about salt and sodium content to be made in relation to a food (not a beverage) that contains more than 1.15% alcohol by volume. Any nutrition content claim made about the salt or sodium content of a food would have to be made in accordance with the conditions specified in clause 11 and Schedule 1 of Standard 1.2.7.

Item [1.3] amends Schedule 1 of Standard 1.2.7 by varying the general claim conditions for making a nutrition content claim for a vitamin or mineral (not including potassium or sodium).

The effect of the amendment is to provide an exemption from the general claim condition at paragraph (b) that requires a serving of the food contains at least 10% of the RDI or ESADDI for that vitamin or mineral). The exemption applies if each of the following exists:

- A maximum claimable amount is prescribed by clause 4 or clause 5 of Standard 1.3.2 for the claimed vitamin or mineral.
- A serving of the food (as specified determined by the supplier) is less than the reference quantity for the food as specified in Column 2 of the Table to clause 3 of Standard 1.3.2.
- The maximum claimable amount (per reference quantity) for the claimed vitamin or mineral is less than 10% RDI or ESADDI per serving.
- The reference quantity contains at least 10% of the RDI or ESADDI for the vitamin or mineral.

In other words, if the maximum claimable amount is less than the required 10% of the RDI or ESADDI per serving, a nutrition content claim may still be made if the reference quantity of the same food contains 10% of the RDI or ESADDI.

Attachment B – Draft variation to the revised *Australia New Zealand Food Standards Code* (commencing 1 March 2016)



Australia New Zealand Food Standards Code – Transitional Variation 2015 (P1038 – Vitamin & Mineral Claims & Sodium Claims about Food containing Alcohol)

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 2 of the variation.

Dated [To be completed by Standards Management Officer]

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

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 20XX.

1 Name of instrument

This instrument is the *Australia New Zealand Food Standards Code – Transitional Variation 2015 (P1038 – Vitamin & Mineral Claims & Sodium Claims about Food Containing Alcohol)*.

2 Commencement

The Schedule commences on 1 March 2016 immediately after the commencement of Standard 5.1.1 – Revocation and transitional provisions — 2014 Revision.

3 Variation of Standards

The Schedule varies a Standard and a Schedule of the *Australia New Zealand Food Standards Code*.

Schedule

[1] **Standard 1.2.7** is varied by deleting subsections 1.2.7—4(1) and (2), substituting

A *nutrition content claim or *health claim must not be made about:

- (a) kava; or
- (b) an infant formula product; or
- (c) a food that contains more than 1.15% alcohol by volume, other than a *nutrition content claim about:
 - (i) energy content or carbohydrate content; or
 - (ii) salt or sodium content about a food that is not a beverage.

[2] **Schedule 4** is varied by

[2.1] inserting the following at the beginning of section S4—2

In this Schedule:

maximum claimable amount means the maximum claimable amount as prescribed by 1.3.2—4 or 1.3.2—5.

reference quantity means the reference quantity specified for the food in the Table to S17—4.

[2.2] deleting Column 2 of the entry for Vitamin or mineral (not including potassium or sodium) from the Table to S4—3, and substituting

- (a) The vitamin or mineral is mentioned in Column 1 of the table to section S1—2 or S1—3; and
- (b) a serving of the food contains at least 10% *RDI or *ESADDI for that vitamin or mineral; and
- (c) a claim is not for more of the particular vitamin or mineral than the amount permitted by section 1.3.2—4 or 1.3.2—5; and
- (d) the food is not any of the following:
 - (i) a formulated caffeinated beverage;

- (ii) food for infants;
- (iii) a formulated meal replacement;
- (iv) a formulated supplementary food;
- (v) a formulated supplementary sports food.

Paragraph (b) does not apply where:

- (i) a maximum claimable amount applies in relation to the mineral or vitamin; and
- (ii) the serving size is less than the reference quantity; and
- (iii) the reference quantity contains at least 10% *RDI or *ESADDI for the vitamin or mineral; and
- (iv) the maximum claimable amount is less than 10% *RDI or *ESADDI per serving.

For food for infants, the food satisfies the condition for making a claim under subsection 2.9.2—10(2).

For a formulated meal replacement, the food meets the condition for making a claim under subsection 2.9.3—4(2).

For a formulated supplementary food, the food meets the conditions for making a claim under subsection 2.9.3—6(2).

For a formulated supplementary food for young children, the food meets the conditions for making a claim under 2.9.3—8(2).

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.

FSANZ prepared Proposal P1038 to address an inconsistency in the conditions for vitamin and mineral claims between Standards 1.2.7 and 1.3.2 and to permit nutrition content claims about salt and sodium in relation to foods (excluding beverages) containing more than 1.15% alcohol by volume. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft Standard.

2. Purpose

The Authority has prepared a draft variation to rectify a discrepancy in the conditions required to make a nutrition content claim about a vitamin or mineral in food. The current conditions require a minimum of 10% of the RDI or ESADDI per serving of the food. The amended conditions will allow a minimum of 10% of the RDI or ESADDI per reference quantity of the food, if certain conditions are met.

The Authority has also prepared a draft variation to permit nutrition content claims about salt and sodium in relation to food (not a beverage) containing more than 1.15% alcohol by volume.

3. Documents incorporated by reference

The variations to food regulatory measures do not incorporate any documents by reference.

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1038 will include one round of public consultation following an assessment and the preparation of a draft Standard and associated report.

A Regulation Impact Statement was not required because the proposed variations to Standard 1.2.7 are of a minor nature.

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. Variation

Item [1] amends subsections 1.2.7—4 (1) and (2), by inserting a reference to salt or sodium content about a food that is not a beverage. The effect of the amendment is to add permission for nutrition content claims about salt and sodium content to be made in relation to a food (not a beverage) that contains more than 1.15% alcohol by volume.

Any nutrition content claim made about the salt or sodium content of a food would have to be made in accordance with the conditions specified in sections 1.2.7—12 and S4—3.

Item [2.1] inserts definitions for maximum claimable amount and reference quantity at the beginning of section S4—2. These defined terms are then used in the amended entry for Vitamin or mineral (not including potassium or sodium) in Schedule 4. The maximum claimable amount is the maximum amount of a vitamin or mineral that can be claimed, as prescribed by section 1.3.2—4 or 1.3.2—5. The reference quantity is the reference quantity specified for the food in the Table to S17—4.

Item [2.2] amends Schedule 4 by varying the general claim conditions for making a nutrition content claim for a vitamin or mineral (not including potassium or sodium).

The effect of the amendment is to provide an exemption from the general claim condition at paragraph (b) that requires a serving of the food contains at least 10% of the RDI or ESADDI for that vitamin or mineral. The exemption applies if each of the following exists:

- A maximum claimable amount is prescribed by section 1.3.2—4 or 1.3.2—5 of Standard 1.3.2 for the claimed vitamin or mineral.
- The serving of the food (as specified by the supplier) is less than the reference quantity for the food as specified in the Table to S17—4.
- The maximum claimable amount (per reference quantity) for the claimed vitamin or mineral is less than 10% RDI or ESADDI per serving.
- The reference quantity contains at least 10% of the RDI or ESADDI for the vitamin or mineral.

In other words, if the maximum claimable amount is less than the required 10% of the RDI or ESADDI per serving, a nutrition content claim may still be made if the reference quantity of the same food contains 10% of the RDI or ESADDI.