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FINAL ASSESSMENT REPORT
(INQUIRY – S.24)

PROPOSAL P254

MINOR AMENDMENTS OMNIBUS TO VOLUME 2
OF THE *FOOD STANDARDS CODE*, #2

THE AUSTRALIA NEW ZEALAND FOOD AUTHORITY

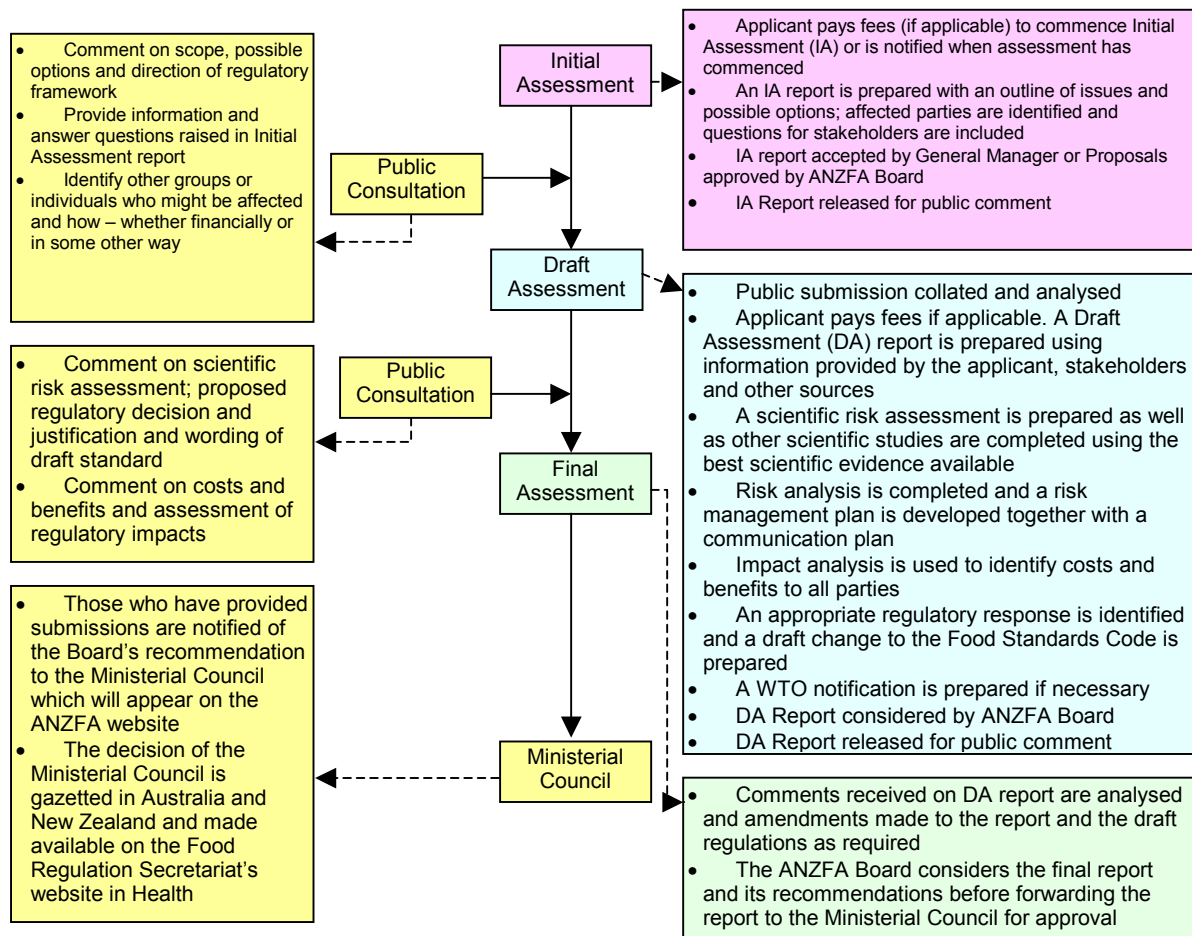
The Australia New Zealand Food Authority's (ANZFA) is a partnership between the Commonwealth Government, Australian State and Territory governments and the New Zealand Government. ANZFA is a bi-national, statutory body whose role, in association with others, is to protect the health and safety of people in Australia and New Zealand through the maintenance of a safe food supply.

ANZFA seeks to achieve this goal by developing, varying and reviewing standards for food available for sale in Australia and New Zealand and through a range of other functions including national food surveillance and recall systems, conducting research, assessing policies about imported food and developing codes of practice with industry.

In developing and reviewing food standards for both Australia and New Zealand, ANZFA makes recommendations to change the food standards to the Australia New Zealand Food Standards Council, a Ministerial Council made up of Commonwealth, State and Territory and New Zealand Health Ministers. If the Council approves the recommendations made by ANZFA, the food standards are automatically adopted as regulations into the food laws of the Australian States and Territories and New Zealand.

STEPS IN DEVELOPING AND REVIEWING FOOD STANDARDS

The process for amending the *Australia New Zealand Food Standards Code* is prescribed in the *Australia New Zealand Food Authority Act 1991* (ANZFA Act). The diagram below represents the different stages in the process including when periods of public consultation occur. This process varies for matters that are urgent or minor in significance or complexity.



SUBMISSIONS

No submissions on this matter are sought as the Authority has completed its assessment and the matter is now with the Australia New Zealand Food Standards Council for consideration.

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EXECUTIVE SUMMARY

Issues

The Australia New Zealand Food Authority (the Authority) prepared a minor omnibus Proposal, P245, to correct errors of minor significance or complexity identified in Volume 2 of the *Food Standards Code* (Volume 2). The Final Assessment report for P245 was submitted to and approved by the Authority Board at the February 2002 meeting.

This separate Proposal has been initiated to address other minor amendments that were not included in P245 due to time constraints or for new amendments that have since arisen. These amendments are also to correct errors of minor significance or complexity in Volume 2. These amendments include typographical errors, inconsistencies, misspellings, grammatical errors, omissions, deletions, corrections to Tables as well as other additions. The proposed draft variations contained in this Proposal have been prepared to correct minor errors identified since adoption of Volume 2.

Consultation

Under section 36 of the *Australia New Zealand Food Authority Act 1991*, (ANZFA Act) the Authority has decided to omit one round of public consultation as it is satisfied that the Proposal raises issues of minor significance and complexity only, and that omitting to invite public consultation at the Initial Assessment stage would not have a significant adverse effect on the interests of concerned parties.

The Initial/Draft Assessment report went out for one round of public comment. There were sixteen submissions received. A number of these expressed concern about item 1.5.2 of the Draft Assessment report, relating to adding the words 'and their products' after 'oats or malt' in subclauses 16 (2) and 16 (3) of Standard 1.2.8. Because of the concern raised this proposed amendment will not be made in this Proposal since the amendment is not one of minor significance, according to some submissions.

A submission from NSW Health Department raised a number of issues, which resulted in the following amendments to the Proposal:

- The proposed amendment in item 1.5.7 (Standard 2.3.1 – Fruit and Vegetables) will not be made in this Proposal.
- NSW Health proposed amended wording for item 1.7.1 (Standard 2.2.2 – Egg and Egg Products). The proposed amendment has been taken from this Proposal and added to the next minor Omnibus Proposal, P262, so the new wording can be assessed in a round of public comment.
- The Editorial notes for item 1.5.1 (Standard 1.2.4 – Labelling of Ingredients) has been reworded and the structure of Schedule 1 has been altered, with the optional class name list placed below the prescribed class name list.

Conclusion and Statement of Reasons

- The proposed draft variations contained in this Proposal have been prepared to correct errors of minor significance or complexity identified since the adoption of Volume 2 of the *Food Standards Code*.
- This Proposal has been raised to address other minor amendments that were not included in an earlier minor Omnibus Proposal (P245) due to time constraints, or that have arisen since.
- The correction of minor errors in Volume 2 will also ensure information provided to consumers in accord with Standards contained in Volume 2 will be correct and comply with the *Food Standards Code*, thereby providing consumers with accurate and adequate information relating to food to enable them to make informed choices.

1. BACKGROUND

On 24 November 2000, the Australia New Zealand Food Standards Council (ANZFS) adopted Volume 2 of the *Food Standards Code*. It is envisaged that Volume 2 will become the sole repository of food product standards in Australia and New Zealand (under the joint food standards setting system established by an Agreement between Australia and New Zealand on 1 July 1996) from approximately 20 December 2002.

The practical effect of the adoption by Health Ministers of Volume 2 (gazetted 20 December 2000), is that food manufacturers in Australia may currently produce food that complies with Volume 1 or Volume 2 of the *Food Standards Code*, but not a combination of both, until Volume 2 becomes the sole repository of food product standards in Australia and New Zealand. In addition food manufacturers in New Zealand may currently produce food that complies with three alternative sources of regulation in the form of: the New Zealand *Food Regulations 1984*; Volume 1 of the *Food Standards Code* (Volume 1); or Volume 2 of the *Food Standards Code*, but not a combination thereof.

Since the gazettal of Volume 2, a number of errors of minor significance or complexity (including typographical errors, inconsistencies, misspellings, grammatical errors, omissions, deletions, corrections to Tables as well as other additions) have been identified in Volume 2, which require correction to ensure that the information contained in Volume 2 is correct so protecting public health and safety. A number of these have been corrected in Proposal P245. This new Proposal addresses further amendments that were not part of P245 due to time constraints as well as amendments that were identified after the paper was completed. It is expected that there will be the need to have further Omnibus papers to address minor amendments and corrections that are identified in Volume 2, as it is applied.

2. ISSUES

The amendments to Volume 2 contained in this Proposal have been categorised in the following item numbers:

Item 1 correct typographical errors in:

- Standard 1.3.1 – Food Additives;

- Standard 2.2.3 – Fish and Fish Products; and
- Standard 3.2.3 – Food Premises and Equipment.

Item 2 remove inconsistencies in:

- Schedule 1 in Standard 1.2.4 – Labelling of Ingredients;
- Standard 1.2.8 – Nutrition Information Requirements;
- Schedule 5 in Standard 1.3.1 – Food Additives;
- Standard 1.4.1 – Contaminants and Natural Toxicants;
- Standard 1.4.4 – Prohibited and Restricted Plants and Fungi;
- Standard 2.2.1 – Meat and Meat Products;
- Standard 2.3.1 – Fruit and Vegetables; and
- Standard 2.9.2 – Foods for Infants.

Item 3 correct misspellings in:

- Standard 1.4.4 – Prohibited and Restricted Plants and Fungi.

Item 4 rectify grammatical errors in:

- Standard 2.2.2 – Egg and Egg Products; and
- Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods.

Item 5 insert omissions into:

- Standard 1.2.4 – Labelling of Ingredients;
- Standard 1.3.1 – Food Additives; and
- Standard 2.6.2 – Non-Alcoholic Beverages and Brewed Soft Drinks.

Item 6 delete entries in:

- Standard 1.3.1 – Food Additives;
- Standard 1.6.2 – Processing Requirements;
- Standard 2.2.1 – Meat and Meat Products; and
- Standard 2.9.2 – Foods for Infants.

Item 7 correct Tables in:

- Standard 1.2.8 – Nutrition Information Requirements; and
- Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods.

Item 8 add words to:

- Standard 1.6.1 – Microbiological Limits for Food.

The Australia New Zealand Food Authority recommends the adoption of the draft variations, as amended, for the following reasons:

- to correct typographical and editorial errors;
- to remove inconsistencies and ambiguities in the *Food Standards Code*; and
- to clarify the intent of a number of clauses.

3. OBJECTIVES

The development of all food standard(s) is predicated on fulfilling ANZFA's section 10 objectives given below.

ANZFA's statutory objectives in developing food regulatory measures and variations of food regulatory measures

- (1) The objectives (in descending priority order) of the Authority in developing food regulatory measures and variations of food regulatory measures are:
 - (a) the protection of public health and safety; and
 - (b) the provision of adequate information relating to food to enable consumers to make informed choices; and
 - (c) the prevention of misleading or deceptive conduct.
- (2) In developing food regulatory measures and variations of food regulatory measures, the Authority must also have regard to the following:
 - (a) the need for standards to be based on risk analysis using the best available scientific evidence;
 - (b) the promotion of consistency between domestic and international food standards;
 - (c) the desirability of an efficient and internationally competitive food industry;
 - (d) the promotion of fair-trading in food.

In seeking to make minor corrections to Volume 2, ANZFA seeks to maintain the integrity of the *Food Standards Code* so protecting public health and safety, ensuring consumers have adequate information and preventing false or misleading conduct.

4. OPTIONS

Two options available regarding the conclusion of transitional arrangements outlined in this Proposal are:

- adopt the proposed draft variations contained in this Proposal.
- reject the proposed draft variations contained in this Proposal.

5. IMPACT ANALYSIS

The Authority is required, in the course of developing food regulatory measures suitable for adoption in Australia and New Zealand, to consider the impact of various options (including

non-regulatory options) on all sectors of the community, including consumers, the food industry and governments in both countries. The regulatory impact assessment is conducted so as to identify and evaluate the advantages of regulation.

The affected parties to this Proposal are:

- **Consumers** in Australia and New Zealand.
- **Food industry**, including New Zealand and Australian manufacturers, exporters to Australia and New Zealand including multi-national manufacturers, and New Zealand and Australian importers.
- **Governments** of New Zealand, the States and Territories and the Commonwealth of Australia.

The proposed changes are not expected to significantly affect costs to the public, government or industry. However, if adopted, they would reduce uncertainty for suppliers of food and the public, resulting in increased compliance with the *Food Standards Code* and greater confidence in the Australian and New Zealand food standards setting system.

6. ASSESSMENT

6.1 Assessment against section 23 objectives of the ANZFA Act

In conducting the Initial/Draft Assessment ANZFA must consider the section 23 objectives under the ANZFA Act. Submissions received following the invitation for public comment are considered at Final Assessment. No specific matters identified as particularly relevant to New Zealand have been identified for this Proposal. The major requirements are to meet section 10 objectives, which are outlined in Part 3 of this report. Correcting minor errors in Volume 2 ensures the consistency and accuracy of Volume 2 thereby ensuring the protection of public health and safety, ensuring adequate information to consumers and preventing misleading or deceptive conduct.

6.2 Assessment of the Draft Amendments

Detailed below are minor errors that have been identified in Volume 2. These minor errors include: typographical errors; inconsistencies; misspellings; grammatical errors; omissions; deletions; corrections within Tables as well as other additions. Each of these minor errors and the proposed solutions has been assessed by scientific and legal staff to ensure that the recommended solutions are correct and consistent with Volume 2.

The following details are provided with regard to each error identified:

Location – Relevant standard, clause, subclause, paragraph, sub-paragraph or Table where the problems arise or where relevant, specifying additional details such as section heading or column;

Explanation – The nature of the problem/error and rationale for the suggested amendment; and

Solution – Proposed solution.

6.3 Conclusion of assessment

Assessment of the Proposal was undertaken to examine primarily whether there were any significant public health and safety risks. There are no identifiable public health risks associated with the proposed amendments to Volume 2. By correcting minor errors the Proposal also ensures the provision of adequate information to consumers and prevents misleading or deceptive conduct. The assessment also has regard to using the best available scientific risk assessment and ensuring consistency between domestic and international food standards.

Overall there are no significant costs related to the Proposal and there are some benefits to be gained by consumers, industry and governments.

It is considered that staying with the status quo will not deliver possible benefits that will result from the preferred regulatory approach.

Finally, the Proposal will not affect international trade.

7. DETAILS OF THE AMENDMENTS

7.1 Typographical

7.1.1 Standard 1.3.1 – Food Additives

Location Schedule 1 - Permitted use of food additives by food type, item 13.2 – Foods for infants

Explanation The modified starches (INS numbers 1412, 1413, 1414, 1422 and 1440) at the bottom of this item are permitted to 500 mg/kg in total. This is a typographical error since they are permitted up to 50 g/kg (50,000 mg/kg) in Standard R5 of Volume 1. The Inquiry Report for Proposal P215 – ‘Foods for Infants’ which was responsible for developing Standard 2.9.2 – Foods for Infants also lists the maximum permitted amounts of these starches as 5g in total in 100g (again 50,000 mg/kg). The listed amount in Standard 1.3.1 is incorrect, differing by a factor of 100. The correct concentration should be 50,000 mg/kg in total. The names for 1412 and 1414 have also been transposed from Standard 1.2.4.

Solution Change the maximum permitted level for INS numbers 1412, 1413, 1414, 1422 and 1440 from 500 mg/kg to 50,000 mg/kg in total. Also swap the names for 1412 and 1414.

1412	Distarch phosphate	50,000	
1413	Phosphated distarch phosphate	50,000	
1414	Acetylated distarch phosphate	50,000	mg/kg in total
1422	Acetylated distarch adipate	50,000	
1440	Hydroxypropyl starch	50,000	

7.1.2 Standard 2.2.3 – Fish and Fish Products

Location Subclause 3(a)

Explanation There is a typographical error where ‘packaged’ should be ‘package’.

Solution Replace ‘packaged’ with ‘package’ so that the paragraph reads ‘must be included on the label on the package of the fish; or’

7.1.3 *Standard 3.2.3 – Food Premises and Equipment*

Location Editorial note following subclause 2(3) in Division 1

Explanation There is a typographical error where ‘Code’ should be ‘Codes’ in the ‘Australian Building Codes Board’.

Solution Replace ‘Code’ with ‘Codes’ in this Editorial note.

7.2 **Inconsistencies**

7.2.1 *Standard 1.2.4 – Labelling of Ingredients*

Location Schedule 1

Explanation There are differences between the food additive class names listed in Schedule 1 of Standard 1.2.4 – Labelling of Ingredients and the technological functions listed in Schedule 5 of Standard 1.3.1 – Food Additives. The Table listed in Standard 1.2.4 is required for labelling purposes while the Table listed in Standard 1.3.1 is required for the purposes of defining food additives. Their purposes are slightly different though there needs to be some link between the two tables.

The substances listed in Schedule 1 of Standard 1.2.4 may perform one or other of the technological functions listed in Schedule 5 of Standard 1.3.1. However, in some cases the substances (e.g. enzymes, antifoaming agent) may be being used as processing aids, which may not require labelling.

There needs to be a link between the two lists with explanatory notes detailing why the two lists are slightly different. This is performed by adding editorial notes to the two lists, in Standards 1.2.4 and 1.3.1.

NSW Health suggested moving the optional class names from next to the prescribed class names where they can cause confusion for consumers and manufacturers not familiar with the terms. That is, some people may incorrectly believe that antifoaming agent is an optional class name for acid. To alleviate this potential problem NSW Health suggested removing the optional class name list to directly underneath the prescribed class name list, within Schedule 1.

Solution Move the optional class name list to below the prescribed class name list in Schedule 1.

Insert an editorial note immediately following Schedule 1 of Standard 1.2.4 advising that:

Wherever possible the prescribed class names listed in Schedule 1, rather than the optional class names, should be used for declaring food additives in an ingredient list.

Permission to use the optional class names: antifoaming agent, emulsifying salt, enzyme, mineral salt, modified starch and vegetable gum, has been retained to allow the continued use of internationally accepted food labelling practices.

The substances covered in Schedule 1 may perform one or more of the technological functions listed in Schedule 5 of Standard 1.3.1, which may be performed by food additives. However, in some cases the substances may be used as processing aids and may not require labelling (for example enzyme, antifoaming agent).

Submission

The NSW Health Department expressed concerns about the proposed Editorial notes to both Schedule 1 of Standard 1.2.4 and Schedule 5 of Standard 1.3.1. They believed these changes did not in fact clarify the situation but made it more confusing. They suggested rewording the Editorial notes to clarify the situation.

7.2.2 Standard 1.2.8 – Nutrition Information Requirements

Location Subclauses 16(2) and 16(3)

Explanation Under subclause 16(2) of Standard 1.2.8, Nutrition Information Requirements, a gluten free claim can only be made if the food contains no detectable gluten and no oats or malt. Under subclause 16(3) a low gluten claim can only be made if the food contains no more than 20 mg gluten per 100 g of the food and no oats or malt. The prohibition on oats or malt was developed because of the unreliability of the methods of analysis that are available to detect the gluten equivalent fractions of oats and malt that may be toxic to people with coeliac disease.

At Draft Assessment the Authority proposed to add the words ‘and their products’ after ‘oats or malt’ in paragraphs 16(2)(b) and 16(3)(b). However due to strong objections to this amendment received in submissions indicating that this is not a minor amendment, the proposed change will not be made in this Proposal.

Solution No change will be made in this proposal.

Submissions

There were 7 submissions (6 objecting plus one providing some analytical information but no specific opinion expressed) about the proposed amendment relating to subclauses 16(2) and 16(3) of Standard 1.2.8. The six objecting submissions all expressed similar concerns about adding the words ‘and their products’ after the term ‘oats or malt’. They believed this amendment would reduce the range of foods, which people with coeliac disease could safely consume, due to the broadening of foods which can not claim gluten free or low gluten status. Because of the concern expressed in these submissions this amendment will not be made in this Proposal.

7.2.3 *Standard 1.3.1 – Food Additives*

Location Schedule 5

Explanation As per the amendment to Standard 1.2.4 listed above (item 7.2.1) there are differences between the food additive class names listed in Schedule 1 of Standard 1.2.4 – Labelling of Ingredients and the Technological Functions listed in Schedule 5 of Standard 1.3.1 – Food Additives. Schedule 1 of Standard 1.2.4 lists food additive class names (which must be used for ingredient labelling purposes) as a result, wherever possible the prescribed class names should be used rather than the optional class names.

There needs to be a link between the two lists with explanatory notes detailing why the two lists are slightly different. This is performed by adding Editorial notes at the two lists, in the two standards.

Solution Insert an Editorial note following Schedule 5, Standard 1.3.1 advising that:

Food additives must perform one of the technological functions listed in Schedule 5, but food additives must be declared in an ingredient list according to the food additive labelling provisions contained in Standard 1.2.4.

The second Editorial note also under Schedule 5 should also explain that:

Wherever possible the prescribed class names listed in Schedule 1 of Standard 1.2.4 should be used rather than the optional class names. However, optional class names listed separately in Schedule 1 of Standard 1.2.4 may be used for the purposes of an ingredient list.

Submission

The submission from NSW Health was mentioned under item 7.2.1.

7.2.4 *Standard 1.4.1 – Contaminants and Natural Toxicants*

Location Table to clause 4

Explanation There is an inconsistency in dealing with quinine between clause 2 and Schedule 2 of Standard 1.4.4 – Prohibited and Restricted Plants and Fungi and Table to clause 4 of Standard 1.4.1. Quinine is a natural toxicant listed in Schedule 2 – Restricted Plants and Fungi of Standard 1.4.4 but its restricted approvals have not been incorporated in the Table to clause 4 of Standard 1.4.1. The approvals for quinine from item 14 in Schedule 1 of Standard 1.3.1 – Food Additives need to be incorporated in the Table to clause 4 in Standard 1.4.1. The restricted use of quinine is listed in the Table to clause 4 in Standard A6 in Volume 1 (however the approval for all other foods has been removed).

Solution Add the following beneath Quassine in the Table to clause 4 of Standard 1.4.1

Quinine

Mixed alcoholic drinks not elsewhere classified	300
Tonic drinks, bitter drinks and quinine drinks	100
Wine based drinks and reduced alcohol wines	300

7.2.5 *Standard 1.4.4 – Prohibited and Restricted Plants and Fungi*

Location Schedule 1 and 2

Explanation There are inconsistencies between how *Artemisia* species are treated in Volume 1 and Volume 2. In Volume 2 the four *Artemisia* species are listed in Schedule 1 - Prohibited Plants and Fungi while they are listed in the Table to clause 9 in Standard A12 in Volume 1, which allows restricted use in food as a flavouring. The effect of prohibiting these plants in Volume 2 is to restrict the importation of some alcoholic beverages containing absinthe, which are permitted by Volume 1. The active ingredient in absinthe is still restricted. The prohibited listing for these species in Volume 2 is incorrect. The four *Artemisia* species are required to be moved from Schedule 1 (prohibited list) to Schedule 2 (restricted list) consistent to that listed in Standard A12 of Volume 1.

Solution Remove the entries to *Artemisia absinthium*, *Artemisia cina Berg*, *Artemisia maritima* and *Artemisia vulgaris* from Schedule 1 and place them in Schedule 2 of Standard 1.4.4. They need to be listed at the top of the Schedule in the following way:

<i>Artemisia absinthium</i>	Common wormwood	Thujone, santonin
<i>Artemisia cina Berg</i>	Levant wormseed	Thujone, santonin
<i>Artemisia maritima</i>	Levant wormseed	Thujone, santonin
<i>Artemisia vulgaris</i>	Mugwort	Thujone, santonin

7.2.6 *Standard 2.2.1 – Meat and Meat Products*

Location Table of Provisions

Explanation The title of the Schedule is not listed in the Table of Provisions, which is inconsistent with the rest of the Code.

Solution Add the Schedule title ‘Determination of fluid in a package of frozen poultry carcass’ next to Schedule in the Table of Provisions.

7.2.7 *Standard 2.3.1 – Fruit and Vegetables*

Location Clause 1

Explanation The Draft Assessment report proposed to change the words ‘in this code’ to ‘in this Standard’ in clause 1 of Standard 2.3.1.

There is an apparent inconsistency between the application of the definition of fruit and vegetables in this clause and in subclause 3(i) in Standard 1.2.8, which relates to labelling exemptions.

Clause 1, Standard 2.3.1 states: ‘In this Code – **fruit and vegetables** means fruit, vegetables, nuts, spices, herbs, fungi, legumes and seeds.’

Subclause 3(i) in Standard 1.2.8 exempts the following from appearing in a nutrition information panel (NIP) on a label:

‘fruit, vegetables, meat, poultry, and fish that comprise a single ingredient or category of ingredients’.

The two terms are not identical, that used in subclause 3(i) of Standard 1.2.8 is ‘fruit, vegetables’ not ‘fruit and vegetables’ so the definition of ‘fruit and vegetables’ in Standard 2.3.1 does not directly apply to Standard 1.2.8.

The intent of the proposed change was to clarify that packaged nuts require an NIP, and are not exempt.

Solution It was proposed at Draft Assessment to change ‘in this Code’ in Standard 2.3.1 to ‘in this Standard’. However the submission from NSW Health Department opposed this change, as it was not of minor significance.

No change will be made in this proposal.

Submission

NSW Health Department believed that this amendment would limit the definition to only Standard 2.3.1. They believe this change could cause inconsistencies with other Standards that have not been considered. The proposed change would cause the three definitions covered in this clause (fruit and vegetables, peeled and/or cut fruit and vegetables, and surface treated fruit and vegetables) would not apply to the rest of the Code and may cause wider ramifications. They believe if the intent of the amendment is to ensure that nuts carry NIP labelling then subclause 3(i) of Standard 1.2.8 would need to be amended to ensure this.

Because of the possible broader ramifications the proposed amendment will not be made in this Proposal.

7.2.8 Standard 2.9.2 – Foods for Infants

Location Clause 9

Explanation There are inconsistencies between Standard 2.9.2 and Standard 1.2.8.

Subclause 9(1)(b) of Standard 2.9.2 exempts foods listed in paragraphs 3(c), (d), (e) and (f) of Standard 1.2.8 (herb, spice, herbal infusion and water; vinegar and related products; salt and salt products; and tea and coffee products respectively). Since these foods have no relevance as foods for infants, it is therefore recommended to remove this subclause.

Subclauses 5(4) and 5(5) of Standard 1.2.8 should also not apply to Standard 2.9.2 because the policy decision taken during the review of the infant foods standard was that nutrient declarations in the NIP for infant foods should be simply the mandated nutrients together with those nutrients that are the subject of a claim. Subclause 5(4) requires the declaration of subgroups of fatty acids when a particular fatty acid or cholesterol claim is made, and subclause 5(5) requires the declaration of dietary fibre when a carbohydrate-related claim is made. It is therefore recommended to add the Standard 1.2.8 subclauses 5(4) and 5(5) to the current subclause 5(2) within subclause 9(1)(c) of Standard 2.9.2 to effect exemptions from these additional nutrient declaration requirements for infant foods.

The format of NIP shown in subclause 9(3) also needs to be made consistent with Standard 1.2.8. The format for claimed fatty acids should be as an instruction rather than prescribed text. The new format should be as listed below.

Solution Delete subclause 9(1)(b) and rename the other clauses as appropriate. Add subclauses ‘5(4) and 5(5)’ to the new subclause 9(1)(b) (formerly 9(1)(c)). Modify the format shown in subclause 9(3) as below.

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Quantity per Serving	Quantity per 100 g (or 100 mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
- (insert claimed fatty acids)	g	g
Carbohydrate	g	g
- sugars	g	g
(insert any other nutrient or biologically active substance to be declared)	g, mg, µg (or other units as appropriate)	g, mg, µg (or other units as appropriate)

Submissions

The submission from Fonterra noted that Proposal P234 was proposing to revise Standard 1.2.8 subclause 5(4) to prohibit cholesterol claims and thus delete cholesterol from the list of claimed nutrients that trigger declaration of additional fatty acids. It pointed out the potential impact of such a revision on the amendments contained in this Proposal, P254. The submission also queried whether the requirement that foods for infants not carry sodium content declarations was intentional. NSW Health Department also queried the proposed amendment, believing that trans-, poly- and mono-unsaturated fatty acids, and dietary fibre may be of relevance to infant foods when respective fatty acid or cholesterol, or carbohydrate related claims are made.

The need to insert reference to Standard 1.2.8 subclauses 5(4) and 5(5) in the list of exempted provisions relating to nutrition labelling of infant foods remains irrespective of the mooted change to Standard 1.2.8 subclause 5(4) arising from Proposal P234. The intent of the omnibus exemptions is to confine the information in a nutrition information panel on infant foods to the mandated nutrients (smaller list than for regular foods e.g. no saturated fat) and those nutrients that are the subject of a claim, for example omega 3 fatty acids, rather than requiring the additional declaration of nutrients related to the subject of a claim e.g. monounsaturated, polyunsaturated, and trans fatty acids. This proposal does not affect the current requirement for the amount of nutrient that is the subject of a claim, for example, omega 3 fatty acids, to be declared in the NIP.

Whether the fat-related nutrients or dietary fibre should also be declared when a related nutrient claim is made, was considered briefly during the review of Standard 2.9.2 – Infant foods (Proposal P215). The policy decision was that these additional requirements could be misleading because carers may not be aware of the specific and different fatty acid needs of infants versus adults and would possibly be difficult to implement on small packages.

Sodium is intentionally omitted from the mandated list of nutrients for nutrition labelling of infant foods because sodium limits are imposed within Standard 2.9.2 (Table to paragraph 2(3)(c)). Proposal P215 considered the need for declaration of sodium and concluded that ‘the sodium content of these foods is regulated to safe levels, therefore it is not necessary to mandate the inclusion of sodium in the NIP.’

Other issues

One significant result of ensuring consistency with the regular NIP format requirements of Standard 1.2.8 is the removal of the word ‘total’ from the entry for carbohydrate in the format of the NIP prescribed in Standard 2.9.2. Manufacturers who have already revised labels of infant foods to include the relevant version of the NIP during the transition period in accordance with Standard 2.9.2 will not be disadvantaged by that particular removal of ‘total’ because of a proposed amendment to Standard 1.2.8 by Proposal P252 – Transitional Arrangements for Repeal of Volume 1 of the *Food Standards Code* - to permit the optional use of ‘total’ in conjunction with carbohydrate.

7.3 Misspelling

7.3.1 Standard 1.4.4 – Prohibited and Restricted Plants and Fungi

Location Schedule 1, column 1

Explanation The spelling of ‘*Mahonia aquifolia*’ is incorrect and should be ‘*Mahonia aquifolium*’.

Solution Correct the spelling of ‘*Mahonia aquifolia*’ (under the entry for ‘*Lycium ferocissimum*’) to ‘*Mahonia aquifolium*’.

7.3.2 Standard 1.4.4 – Prohibited and Restricted Plants and Fungi

Location Schedule 1, column 1

Explanation The spelling of ‘*Solanum lactinatum**’ is incorrect and should be ‘*Solanum laciniatum**’, and it should also be in italics.

Solution Correct the spelling of ‘*Solanum lactinatum**’ (under the entry of ‘*Solanum dulcamara*’) with ‘*Solanum laciniatum**’ and put the entry in italics.

7.4 Grammar

7.4.1 Standard 2.2.2 – Egg and Egg Products

Location Subclause 3(2)

Explanation The current wording is ‘Cracked eggs sold for non-retail’ which is ambiguous and needs to be rewritten to clarify its intent consistent with the wording used in subclause 3(1).

At Draft Assessment it was proposed to replace subclause 3(2) with ‘Cracked eggs sold (a) not for retail sale or (b) not for catering purposes must be pasteurised or have undergone an equivalent treatment so that the egg product meets the microbiological criteria specified in Standard 1.6.1.’

The submission from NSW Health Department suggested alternative wording as cracked eggs are not pasteurised as such:

‘Egg products derived from cracked eggs sold (a) not for retail sale or (b) not for catering purposes must be pasteurised or have undergone an equivalent treatment so that the egg product meets the microbiological criteria specified in Standard 1.6.1.’

However because this is a change of wording it was decided to remove the amendment, with the new wording from this Proposal and add it to the next minor Omnibus Proposal, P262, where it can undergo another round of public comment.

Solution No change will be made in this Proposal. The proposed amendment will be part of the next minor Omnibus Proposal, P262.

Submission

NSW Health Department stated that cracked eggs, as such, are not pasteurised. Cracked eggs are normally processed as a pulp. They believe the wording of the amendment should be altered to reflect this. They proposed the wording of the amendment be changed to:

‘Egg products derived from cracked eggs sold (a) not for retail sale or (b) not for catering purposes must be pasteurised or have undergone an equivalent treatment so that the egg product meets the microbiological criteria specified in Standard 1.6.1.’

The proposed change to the wording will be included in, P262, where the new wording will undergo a round of public comment.

7.4.2 *Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods*

Location Schedule heading of Table 3

Explanation There is a grammatical error where the word ‘for’ needs to be added to the title.

Solution The title should read ‘Formulated supplementary foods and formulated supplementary foods for young children’.

7.5 Omissions

7.5.1 *Standard 1.2.4 – Labelling of Ingredients*

Location Table of Provisions

Explanation The list of the Schedules (with titles, Schedule 1 does not have a title, while Schedule 2 does) has been omitted from this Standard and needs to be added. It is inconsistent with other Standards, such as Standard 1.3.1.

Solution The title ‘Classes of additives’ needs to be added to Schedule 1.

Insert the following underneath the current Table of Provisions:

Schedule 1	Classes of additives
Schedule 2	Food additive code numbers

7.5.2 *Standard 1.2.4 – Labelling of Ingredients*

Location Schedule 2 (both Part 1 and Part 2, Food Additive Code Numbers, alphabetical and numerical order respectively)

Explanation Permission for labelling additive INS number 100 as either ‘turmeric or curcumin’ in the Schedule to Standard A1 in Volume 1 has been omitted from Volume 2. Currently the additive 100 refers to only curcumin; there is no reference to turmeric.

Solution Amend Schedule 2 Part 1 (alphabetical order) and Part 2 (numerical order) to include entries for ‘curcumin or turmeric’.
 Part 1 add ‘or turmeric’ to entry for curcumin 100
 Part 2 add ‘or turmeric’ to entry for curcumin 100

Submission

NSW Health Department suggested for ease of use there should be separate entries for curcumin and turmeric. Not everyone who wishes to look up turmeric will know that it is listed with curcumin. This statement is correct however the lists have been written to keep them simple and not list every separate version of names of food additives. In the numerical order list the two entries are listed under the code number 100.

NSW Health Department also suggested names for potassium acetate and potassium diacetate, but there are a number of other grouped additive names (see item 7.5.5).

7.5.3 *Standard 1.3.1 – Food Additives*

Location Schedule 1 - Permitted uses of food additives by food type, item 13.2 – Foods for infants

Explanation It has been noted that the permission to use calcium chloride as a food additive for foods for infants in Standard R5 – Canned Foods for Infants and Young Children of Volume 1 and in regulation 243 of the New Zealand *Food Regulations 1984* has been omitted from Volume 2. It has been determined that it performs a technological function, where it acts (with carrageenan) as a gelling agent, so it is appropriate to be added to Standard 1.3.1-to ensure consistency between Volumes 1 and 2.

Solution To include ‘509 Calcium Chloride’ at the maximum level of 750 mg/kg, beneath the entry for ‘503 Ammonium carbonates,’ in Schedule 1, item number 13.2.

7.5.4 *Standard 1.3.1 – Food Additives*

Location Schedule 1 - Permitted uses of food additives by food type, item 13.3 – Formula meal replacements and formulated supplementary foods

Explanation The permission given to use two artificial sweeteners (alitame and acesulphame potassium) for formula meal replacements and formulated supplementary foods from the Full Assessment report (unchanged at Inquiry) for P199 – ‘Formulated Meal Replacements and Formulated Supplementary Foods’ had not been transferred to Standard 1.3.1. This omission needs to be rectified.

Solution Include the two artificial sweeteners under item 13.3 in Schedule 1 as listed:

950	Acesulphame potassium	500 mg/kg
956	Alitame	85 mg/kg

7.5.5 *Standard 1.3.1 – Food Additives*

Location Schedule 2 of Standard 1.3.1 (both alphabetical and numeric listings) and Schedule 2, Part 1 and 2 of Standard 1.2.4

Explanation The international food additive permission for INS number 261 includes both potassium acetate and potassium diacetate and is referred to as potassium acetates, with the subgroups 261 (i) potassium acetate and 261 (ii) potassium diacetate. Volume 2 does not use the subgroup designators (i) and (ii) so the designation of INS number 261 should be listed similarly to the existing entry style of Standard 1.2.4 and read ‘potassium acetate or potassium diacetate’. Reference to potassium diacetate is required in Standard 1.2.4 for labelling purposes.

Solution For Standard 1.3.1 Schedule 2, alphabetical list, the entry for ‘potassium acetate’ should be altered to ‘Potassium acetate or potassium diacetate’. For Standard 1.3.1 Schedule 2, numeric list, the entry for 261 should be altered from ‘Potassium acetate’ to ‘potassium acetate or potassium diacetate’. Consequential changes to Schedule 2 of Standard 1.2.4 are required.

Submission

NSW Health Department believe there should be two entries in the alphabetical list, for potassium acetate and for potassium diacetate, since not all people will know the two will be listed together. This is the same issue raised under item 7.5.2. To keep the Table simple duplicate entries are not used. The numerical listing for 261 will have the two entries.

7.5.6 *Standard 2.6.2 – Non-Alcoholic Beverages and Brewed Soft Drinks*

Location Paragraph 6(2)(a)

Explanation ‘Sucrose’ has been omitted from the list of permitted sugars. It is in paragraph 8(1)(a) of Standard R 9 in Volume 1 and should consequently also appear in Volume 2. The list should be in alphabetical order. Manufacturers are able to use any of the sugars from the list individually or in any combination within the stated limits. The amendment inserts sucrose in paragraph 6(2)(a).

Solution Replace the current subparagraphs 6(2)(a)(i),(ii),(iii) and (iv) with:

- (i) dextrose; and
- (ii) fructose; and
- (iii) glucose syrup; and
- (iv) maltodextrin; and
- (v) sucrose; and

7.6 Deletions

7.6.1 *Standard 1.3.1 – Food Additives*

Location Schedule 2, alphabetical and numeric listings

Explanation Schedule 2 of Standard 1.3.1 – Food Additives contains entries for five enzymes. Volume 2 treats enzymes as processing aids and not as food additives so the permissions for enzymes need to be in Standard 1.3.3- Processing Aids and do not need to be in Standard 1.3.1. The food additive code numbers for labelling purposes for these enzymes are listed in Schedule 2, parts 1 and 2 of Standard 1.2.4 – Labelling of Ingredients so that if manufacturers wish to include the enzymes, or their INS numbers, as food additives on labels they can. Volume 2 would still allow for imported food labelled with these enzymes. Codex and many other food regulatory agencies consider some enzymes as food additives rather than processing aids.

Solution Remove the entries from Schedule 2, both alphabetical and numeric listings for:

1100	Alpha-amylase
1101	Proteases
1102	Glucose oxidase
1104	Lipases

The entries in Standard 1.2.4 should remain for labelling purposes.

Submissions

Two submissions were received (from the National Council of Women of Australia and the Consumers' Association of South Australia) stating that enzymes should be required to be listed on labels not left to the discretion of manufacturers. They do not disagree with the proposed amendment but disagree with the prior decision taken by ANZFA that enzymes are processing aids and as such do not need to be always declared on labels. This decision is outside the scope of this Proposal.

7.6.2 Standard 1.6.2 – Processing Requirements

Location Clause 10

Explanation This clause has been carried over from clause 39 in Standard C1 – Meat, game meat and related products in Volume 1. The food additive permissions for this clause are contained in item 8.2, Standard 1.3.1 in Volume 2. There is no need to have these process requirements specified in Volume 2. The clause provides a definition of 'semi-dry heat-treated processed meat', which is not an item in Standard 1.3.1. Standard 1.3.1 has broader additive permissions than Volume 1, so there is no need for this clause or the Editorial note following clause 10 in Volume 2.

Solution Delete clause 10 and the corresponding Editorial note following clause 10.

Submission

NSW Health Department did not agree with the removal of this clause and corresponding Editorial note. The NSW Health submission stated that the amendment is not minor and may have food safety implications. Clause 39 of Standard C1 of Volume 1 provides a definition of the meat product, which gives permissions for food additives. Since there is no longer an item

called semi-dry heat-treated processed meat in Volume 2 this processing requirement is no longer required.

Food safety implications resulting from the deletion of this clause could be considered by ANZFA under another Proposal, however NSW Health accepted the explanation above.

7.6.3 *Standard 2.2.1 – Meat and Meat Products*

Location Clause 1, definition of sausage

Explanation The use of the term ‘processed meat’ in the sausage definition in Volume 2 was included to clarify additive permissions that were linked in Volume 1 to the definitions provided. The term ‘processed meat’ is not required in Volume 2 because Standard 1.3.1 – Food Additives contains a category for sausage. The use of the word ‘processed’ is confusing in the definition of sausage in Volume 2 since processed meat has a separate definition and sausages are usually made from raw meat.

Solution Remove the word ‘processed’ from the definition of sausage: ‘**sausage** means meat that is minced,’.

7.6.4 *Standard 2.9.2 – Foods for Infants*

Location Subclause 9(2)

Explanation This subclause is no longer required because all Nutrition Information Panels (NIPs) must declare total sugars content. Standard 2.9.2 was completed before the general standard relating to NIPs, Standard 1.2.8 – Nutrition Information Requirements was completed.

Solution Remove subclause 9(2) and renumber subclause 9(3) as 9(2).

7.7 **Corrections**

7.7.1 *Standard 1.2.8 – Nutrition Information Requirements*

Location Table to subclause 7(3)

Explanation The reference value for sugar in this Table (62g) represents a value for added sugars. This is inconsistent with the entry in the Nutrition Information Panel (NIP), which should be for total sugars. The draft Australian dietary guidelines recommend total sugars be 15-20% of total energy intake.

Taking the reference value for energy from the Table to subclause 7(3) of 8700 kJ, the amount of total sugars is calculated from the midpoint of the suggested range of contribution to energy intake (17.5 %), after dividing by the energy conversion factor of 17 kJ/g i.e. $(8700 \times 17.5 \%) / 17 = 90$ g.

The reference value should therefore be amended to 90 g and be referred to as total sugars, so the singular ‘sugar’ should be replaced by ‘sugars’ (plural).

Solution The entry for ‘sugar’ needs to be altered to ‘sugars’ while the value needs to be changed from 62 g to 90 g.

Submissions

Two submissions were received (from the New Zealand Sugar Company and MW Porter Novelli who are a nutrition consultant to the sugar industry and who appear to be representing the Australian Sugar Industry (sugar refiners and producers)) who supported this proposed amendment.

7.7.2 Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods

Location Table 2, column 3

Explanation The biotin and pantothenic acid values in column 3 of Table 2 are incorrect and need correcting to 5 µg for biotin and 0.8 mg for pantothenic acid. The reference Estimated Safe and Adequate Daily Dietary Intake (ESADDIs) for these vitamins and minerals come from the Schedule in Standard 1.1.1. There are also other errors that need correcting in column 3 of Table 2 relating to the entries for organic forms of chromium, copper, manganese and molybdenum. Subclause 3(2)(a) requires that no claims be made on the label for vitamins and minerals that are less than 10% of the RDI or ESADDI. The above listed minerals are given as 8% ESADDI so no claims are permitted. This needs to be corrected to replace the amounts with ‘no claim permitted’.

Solution The corrected Table 2 appears below, where the incorrect entries have been crossed out and the new, correct entries underlined.

Table 2

Formulated meal replacements

Column 1 Vitamins and minerals	Column 2 Maximum quantity per one-meal serving (proportion ESADDI unless stated otherwise)	Column 3 Maximum claim per one-meal serving (proportion ESADDI unless stated otherwise)
Biotin	No quantity set	17 <u>5</u> µg (17%)
Pantothenic acid	No quantity set	1.3 <u>0.8</u> mg (17%)
Vitamin K	No quantity set	40 µg (50%)
Chromium: inorganic	34 µg (17%) 16 µg (8%)	34 µg (17%) 16 µg (8%) <u>no claim permitted</u>
Copper: inorganic	0.50 mg (17%) 0.24 mg (8%)	0.50 mg (17%) 0.24 mg (8%) <u>no claim permitted</u>
Manganese: inorganic	0.85 mg (17%) 0.4 mg (8%)	0.85 mg (17%) 0.4 mg (8%) <u>no claim permitted</u>

Molybdenum: inorganic	42.5 µg (17%)	42.5 µg (17%)
organic	20 µg (8%)	20 µg (8%) <u>no claim permitted</u>
Selenium: inorganic	17.5 µg (25% RDI)	17.5 µg (25% RDI)
organic	9 µg (13% RDI)	9 µg (13% RDI)

7.8 Additions

7.8.1 Standard 1.6.1 – Microbiological Limits for Food

Location Schedule, column 1

Explanation The risk assessment associated with setting microbiological limits for food identified only bivalve molluscs (including, oysters, mussels and scallops) as the category to which this standard would apply. The risk assessment did not include other categories that come under the definition of molluscs such as cephalopods (including octopus) and gastropods (including snails). Therefore the entry should be restricted to bivalve molluscs.

Solution Add ‘bivalve’ in front of molluscs where it appears in the Schedule.

Submission

A submission was received from the Microbiological Diagnostic Unit at the University of Melbourne about this Standard though they did not have comments about the specific amendment.

They had other queries about consistency between Volume 1 and Volume 2 relating to aspects of Standard 1.6.2 that need to be looked at but are outside this Proposal.

8. CONSULTATION

Under Section 36 of the ANZFA Act, the Authority decided to omit one round of public consultation as it is satisfied that the Proposal raises issues of minor significance and complexity only, and that omitting to invite public consultation at the preliminary stage would not have a significant adverse effect on the interests of concerned parties.

The Initial/Draft Assessment Report for this Proposal went out for public comment on 13 March 2002 until 24 April 2002. A number of late submissions were received which have been included in this Report.

A total of 16 submissions were received. The list of people or groups that made comments on this Proposal and a summary of their comments are provided in Attachment 2.

Four out of the 16 submissions supported the proposed amendments without comments or further queries. There were a number of other submissions that deal with some of the individual proposed amendments. Discussion of these submissions is detailed under the individual proposed amendments:

Amendment 7.2.1;
Amendment 7.2.2;
Amendment 7.2.3;
Amendment 7.2.7;
Amendment 7.2.8;
Amendment 7.4.1;
Amendment 7.5.2;
Amendment 7.5.5
Amendment 7.6.1;
Amendment 7.6.2;
Amendment 7.7.1; and
Amendment 7.8.1.

8.1 World Trade Organization (WTO) Notification

As members of the WTO, Australia and New Zealand are signatories to the agreements on the Application of Sanitary and Phytosanitary Measures (SPS agreement) and on Technical Barriers to Trade (TBT Agreements). In some circumstances, Australia and New Zealand have an obligation to notify the WTO of changes to food standards to enable member countries of the WTO to make comment.

These proposed amendments to Volume 2 are minor and without serious implications. The amendments are being proposed to correct errors and clarify the intent of certain provisions. These amendments will not raise any potential Sanitary/Phytosanitary matters or Technical Barriers to Trade, and therefore, it will not be necessary to notify the WTO.

9. CONCLUSION

The proposed draft variations in Proposal P254 have been prepared to correct errors of minor significance and complexity (including typographical errors, inconsistencies, misspellings, grammatical errors, omissions, deletions, corrections to Tables as well as other additions) identified in Volume 2. Public health and safety will be maintained by ensuring minor errors are amended and there is consistency in Volume 2.

Public submissions received caused some changes to the proposed amendments. Two proposed amendments (item 7.2.2 and 7.2.7) will not be made in this Proposal, as submitters believe the proposed amendments are not of a minor nature. The proposed amendment 7.4.1 has been removed from this Proposal and the amended version will be added to P262, where it will under go another round of public comment. The Editorial notes for item 7.2.1 have been rewritten to clarify them.

ATTACHMENTS

1. Draft variations to Volume 2 of the *Food Standards Code*.
2. Summary of public submissions

ATTACHMENT 1

DRAFT VARIATIONS TO VOLUME 2 OF THE *FOOD STANDARDS CODE*

To commence: On gazettal

[1] *Standard 1.2.4 of Volume 2 of the Food Standards Code is varied by -*

[1.1] *inserting immediately after Schedule 1 –*

Editorial note:

Wherever possible the prescribed class names listed in Schedule 1, rather than the optional class names, should be used for declaring food additives in an ingredient list.

Permission to use the optional class names: antifoaming agent, emulsifying salt, enzyme, mineral salt, modified starch and vegetable gum, has been retained to allow the continued use of internationally accepted food labelling practices.

The substances covered in Schedule 1 may perform one or more of the technological functions listed in Schedule 5 of Standard 1.3.1, which may be performed by food additives. However, in some cases the substances may be used as processing aids and may not require labelling (for example, enzyme, antifoaming agent).

[1.2] *omitting Schedule 1 and the heading Schedule 1, substituting –*

SCHEDULE 1

Classes of additives

Prescribed class names
Acid
Acidity Regulator
Alkali
Anticaking Agent
Antioxidant
Bulking Agent
Colour
Emulsifier
Firming Agent
Flavour Enhancer
Foaming Agent
Gelling Agent
Glazing Agent
Humectant
Preservative
Raising Agent
Stabiliser
Sweetener
Thickener

Optional class names
Antifoaming Agent
Emulsifying Salt
Enzyme
Mineral Salt
Modified Starch
Vegetable Gum

[1.3] *inserting in the Table of Provisions immediately after the entry for Declaration of vitamins and minerals –*

Schedule 1 Classes of additives
 Schedule 2 Food additive code numbers

[1.4] *omitting from Schedule 2, Part 1, Food Additive Code Numbers (alphabetical order) the Prescribed name and Code No for the entry Curcumin, substituting -*

Curcumin or turmeric	100
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[1.5] *omitting from Schedule 2, Part 2, Food Additive Code Numbers (numerical order) the Prescribed name and Code No for the entry Curcumin, substituting -*

Curcumin or turmeric	100
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[1.6] *omitting from Schedule 2 Part 1 Food Additive Code Numbers (alphabetical order) and (numerical order) the Prescribed name and Code No. for the entry Potassium acetate, substituting –*

Potassium acetate or potassium diacetate	261
------------------------------------------	-----

[1.7] *omitting from Schedule 2 Part 2 Food Additive Code Numbers (numerical order) the Prescribed name and Code No. for the entry Potassium acetate, substituting –*

Potassium acetate or potassium diacetate	261
------------------------------------------	-----

[2] **Standard 1.2.8** of Volume 2 of the Food Standards Code is varied by omitting from Column 1 and Column 2 of the Table to subclause 7(3) the entry for Sugar, substituting -

Sugars	90 g
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[3] **Standard 1.3.1** of Volume 2 of the Food Standards Code is varied by –

[3.1] *omitting from Schedule 1, item 13.2 Foods for infants -*

1412	Acetylated distarch phosphate	500	} mg/kg in total
1413	Phosphated distarch phosphate	500	
1414	Distarch phosphate	500	
1422	Acetylated distarch adipate	500	
1440	Hydroxypropyl starch	500	

substituting –

1412	Distarch phosphate	50,000	} mg/kg in total
1413	Phosphated distarch phosphate	50,000	
1414	Acetylated distarch phosphate	50,000	
1422	Acetylated distarch adipate	50,000	
1440	Hydroxypropyl starch	50,000	

[3.2] *inserting immediately after* Schedule 5 -

Editorial note:

Food additives must perform one of the technological functions listed in Schedule 5 of Standard 1.3.1, but food additives must be declared in an ingredient list according to the food additive labelling provisions contained in Standard 1.2.4.

Wherever possible the prescribed class names listed in Schedule 1 of Standard 1.2.4 should be used rather than the optional class names. However, optional class names listed separately in Schedule 1 of Standard 1.2.4 may be used for the purposes of an ingredient list.

[3.3] *inserting in* Schedule 1, item 13.2 – Foods for infants *immediately after the entry for* Ammonium carbonates –

509	Calcium chloride	750	mg/kg
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[3.4] *inserting in* Schedule 1, item 13.3 – Formula meal replacements and formulated supplementary foods*-

950	Acesulphame potassium	500	mg/kg
956	Alitame	85	mg/kg

[3.5] *omitting from* Schedule 2 – Miscellaneous additives permitted in accordance with GMP in processed foods specified in Schedule 1 (Alphabetical Listing) *and* (Numeric Listing) *the* INS number *and* Additive name *for the entry* Potassium acetate, *substituting*

261	Potassium acetate or potassium diacetate
-----	------------------------------------------

[3.6] *omitting from* Schedule 2 – Miscellaneous additives permitted in accordance with GMP in processed foods specified in Schedule 1 (Alphabetical Listing) *and* (Numeric Listing) -

1100	Alpha-amylase
1101	Proteases
1102	Glucose oxidase
1104	Lipases

[4] **Standard 1.4.1** of Volume 2 of the Food Standards Code is varied by inserting in the Table to clause 4 *immediately after the entry for* Quassine –

Quinine	
Mixed alcoholic drinks not elsewhere classified	300
Tonic drinks, bitter drinks and quinine drinks	100
Wine based drinks and reduced alcohol wines	300

[5] **Standard 1.4.4 of Volume 2 of the Food Standards Code is varied by –**

[5.1] *omitting from* Schedule 1 -

<i>Artemisia absinthium</i>	Common wormwood
<i>Artemisia cina Berg</i>	Levant wormseed
<i>Artemisia maritima</i>	Levant wormseed
<i>Artemisia vulgaris</i>	Mugwort

[5.2] *inserting in Column 1, Column 2 and Column 3 respectively of* Schedule 2 *immediately before the entry for* Chrysanthemum balsamita –

<i>Artemisia absinthium</i>	Common wormwood	Thujone, santonin
<i>Artemisia cina Berg</i>	Levant wormseed	Thujone, santonin
<i>Artemisia maritima</i>	Levant wormseed	Thujone, santonin
<i>Artemisia vulgaris</i>	Mugwort	Thujone, santonin

[5.3] *omitting from* Column 1, Schedule 1 -

Mahonia aquifolia

substituting

Mahonia aquifolium

[5.4] *omitting from* Column 1, Schedule 1 -

*Solanum lactinatum** (*see* *Solanum aviculare*)

substituting –

*Solanum laciniatum** (*see* *Solanum aviculare*)

[6] **Standard 1.6.1 of Volume 2 is varied by omitting from the Schedule -**

Molluscs, other than scallops	<i>Escherichia coli</i> /g	5	1	2.3	7
Molluscs that have undergone processing other than depuration	<i>Listeria monocytogenes</i> /25g	5	0	0	

substituting

Bivalve molluscs, other than scallops	<i>Escherichia coli</i> /g	5	1	2.3	7
Bivalve molluscs that have undergone processing other than depuration	<i>Listeria monocytogenes</i> /25g	5	0	0	

[7] **Standard 1.6.2** of Volume 2 is varied by omitting clause 10, and the Editorial Note following clause 10.

[8] **Standard 2.2.1** of Volume 2 is varied by -

[8.1] *omitting from the Table of Provisions the heading Schedule, substituting -*

Schedule Determination of fluid in a package of frozen poultry carcass

[8.2] *omitting from clause 1 the definition for sausage, substituting-*

sausage means meat that is minced, or comminuted meat or a combination thereof, which may be combined with other foods, encased or formed into discrete units, but does not include meat formed or joined into the semblance of cuts of meat.

[9] **Standard 2.2.3** of Volume 2 is varied by omitting paragraph 3(a), substituting -

(a) must be included on the label on the package of the fish; or

[10] **Standard 2.6.2** of Volume 2 is varied by omitting subparagraphs 6(2)(a)(i), (ii), (iii) and (iv), substituting -

- (i) dextrose; and
- (ii) fructose; and
- (iii) glucose syrup; and
- (iv) maltodextrin; and
- (v) sucrose; and

[11] **Standard 2.9.2** of Volume 2 is varied by –

[11.1] *omitting paragraphs 9(1)(a) - (g), substituting –*

- (a) paragraph 3(j); and
- (b) subclause 5(2), 5(4) and 5(5); and
- (c) clause 7; and
- (d) clause 8; and
- (e) clause 9; and
- (f) subclause 17(2).

[11.2] *omitting subclause 9(2)*

[11.3] *omitting subclause 9(3), substituting –*

(2) The nutrition information panel for food for infants must be set out in the following format –

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Quantity per Serving	Quantity per 100g (or 100 mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
- (insert claimed fatty acids)	g	g
Carbohydrate	g	g
- sugars	g	g
(insert any other nutrient or biologically active substance to be declared)	g, mg, µg (or other units as appropriate)	g, mg, µg (or other units as appropriate)

[12] *Standard 2.9.3 of Volume 2 is varied by-*

[12.1] *omitting from the Schedule Column 3 of Table 2, substituting -*

Column 3
Maximum claim per one-meal serving (proportion ESADDI unless stated otherwise)
5 µg (17%) 0.8 mg (17%) 40 µg (50%)
34 µg (17%) no claim permitted
0.50 mg (17%) no claim permitted
0.85 mg (17%) no claim permitted
42.5 µg (17%) no claim permitted
17.5 µg (25% RDI) 9 µg (13% RDI)

[12.2] *omitting from the Schedule the heading for Table 3, substituting –*

Formulated supplementary foods and formulated supplementary foods for young children

[13] *Standard 3.2.3 of Volume 2 is varied by omitting the word Code wherever occurring in the Editorial Note following subclause 2(3), substituting –*

Codes

ATTACHMENT 2

SUMMARY OF PUBLIC SUBMISSIONS

Submitters

#	Submitter Organisation	Name
1	CSIRO Health Sciences & Nutrition	Dr Mavis Abbey
2	Fonterra Co-operative Group	Shiromani Jayasuriya
3	Gastroenterology Society of New Zealand	Herbert Cook
4	Food Technology Association of Victoria Inc	David Gill
5	Gastroenterology Society of New Zealand	Mark Lane
6	New Zealand Food Composition Steering Committee	Lyn Gillanders
7	New Zealand Sugar Company	Jane Dodd
8	Coeliac Society of New Zealand	Raywin Head
9	New Zealand Dietetic Association	Vicki Robinson, Stephanie Morrison
10	NSW Health Department	John McMahon
11	MW Porter Novelli	Dr Eithne Cahill
12	National Council of Women of Australia	Elaine Attwood
13	BioSys Australia	Denis Erceg
14	Ministry of Health, New Zealand	Jim Sim
15	Microbiological Diagnostic Unit, The University of Melbourne	Agnes Tan
16	Consumers' Association of South Australia	Jill Bailey

Submitter	Comments
CSIRO Health Sciences & Nutrition	Supports the draft variations contained in the Proposal.
Fonterra Co-operative Group	They support all the proposed amendments except item 1.5.8 – Standard 2.9.2 – Foods for infants, clause 9 where they have some issues. They are concerned that there will be inconsistencies if the subclauses 5(4) and 5(5) from Standard 1.2.8 are added to subclause 9(1)(a) in Standard 2.9.2 with ANZFA Proposal P234. If P234 is adopted then cholesterol claims will not be permitted. They also wonder why there is no need to declare sodium in NIP for Foods for infants.
Gastroenterology Society of New Zealand (Herbert Cook)	They have concerns about the proposed amendment 1.5.2, relating to subclauses 16(2) and 16(3) of Standard 1.2.8. They are concerned about adding the phrase 'and their products' after oats or malt in both subclauses. They say this amendment is not of minor significance and complexity. They state and have provided abstracts of technical papers that oats and malt extracts do not have deleterious effects on people with coeliac disease. They do not agree with the proposed amendment.
Food Technology Association of Victoria	Supports the draft variations contained in the Proposal.

Gastroenterology Society of New Zealand (Mark Lane)	<p>They have concerns about the proposed amendment 1.5.2, relating to subclauses 16(2) and 16(3) of Standard 1.2.8.</p> <p>They believe the current evidence indicates that oats and malt that have no detectable gluten by current methodology are safe foods for coeliacs.</p> <p>They believe the proposed additional words ‘and their products’ after ‘oats or malt’ in this amendment is not a minor amendment for coeliacs but will further reduce the range of safe food which people with coeliac disease can safely consume. They state the proposed amendment will cause food currently safe for coeliacs to lose their gluten free or low gluten status, so reducing the range of foods available to coeliacs.</p> <p>They propose a different approach, relating to the analysis of gluten content (as in the current Standard), with an additional advisory statement on the label that the product contains malt (extract)/oats to allay concerns.</p>
New Zealand Food Composition Steering Committee	<p>They have concerns about the proposed amendment 1.5.2, relating to subclauses 16(2) and 16(3) of Standard 1.2.8.</p> <p>They do not agree with the proposed addition of the words ‘and their products’ after ‘oats or malt’.</p> <p>They suggest ANZFA needs to seek wider scientific opinion on this issue.</p> <p>They state the proposed amendment will cause food currently safe for coeliacs to lose their gluten free or low gluten status, so reducing the range of foods available to coeliacs.</p>
New Zealand Sugar Company	<p>They support the proposed amendment 1.10.1, relating to Standard 1.2.8 – Nutritional Information Requirements. They agree that ‘sugar’ should be altered to ‘sugars’ and the reference value changed from 62 g to 90 g.</p>
Coeliac Society of New Zealand	<p>They have concerns about the proposed amendment 1.5.2, relating to subclauses 16(2) and 16(3) of Standard 1.2.8.</p> <p>They do not agree with the proposed addition of the words ‘and their products’ after ‘oats or malt’.</p> <p>As a Society representing people affected by this proposed amendment (people with Coeliac Disease) they believe the amendment is not consistent with current scientific advice.</p>
New Zealand Dietetic Association	<p>They have concerns about the proposed amendment 1.5.2, relating to subclauses 16(2) and 16(3) of Standard 1.2.8.</p> <p>They do not agree with the proposed addition of the words ‘and their products’ after ‘oats or malt’.</p> <p>They believe the proposed amendment will further restrict, for no justified benefit, the range of suitable foods that people with Coeliac disease can consume.</p>
NSW Health Department	<p>They agree with most amendments but have concerns about a number summarised below.</p> <p>Items 1.5.1 and 1.5.3: The proposed amendments (editorial notes following Schedule 1 of Standard 1.2.4 and following Schedule 5 of Standard 1.3.1) make a slightly confusing situation even more confusing. They suggest in Schedule 1 of Standard 1.2.4 the optional names should not be next to the prescribed names but underneath them preventing the false impression that the six optional names are different names to the prescribed names next to them. They believe the Editorial notes need to be rewritten.</p> <p>They believe separate entries should be listed in Schedule 2 (alphabetical order) of Standard 1.2.4 for curcumin, turmeric, potassium acetate and potassium diacetate to be informative.</p> <p>Item 1.5.7: They believe the proposed amendment causing the definition of fruit and vegetables to only apply to Standard 2.3.1 may cause other problems with other standards that mention nuts (e.g. Standard 3.2.2). It could also cause wider ramifications since the proposed amendment covers the definitions of two other food categories.</p> <p>Item 1.5.8: They believe the explanation is confusing. They believe subclause 5(4) and 5(5) of Standard 1.2.8 may apply to Standard 2.9.2. Also it is conceivable that claims about fatty acid content of infant foods may be made.</p>

	<p>Item 1.7.1: They believe the amendment is still incorrect and confusing. Cracked eggs are not pasteurised but are processed as a pulp. ‘Cracked eggs’ should be replaced by ‘Egg products derived from cracked eggs’.</p> <p>Item 1.9.2: They believe the removal of clause 10 in Standard 1.6.2 is not minor and can have a food safety implication.</p>
MW Porter Novelli	<p>This submission is from a nutrition consultant to the sugar industry and appears to be representing the Australian Sugar Industry (sugar refiners and producers). They support the Proposal, specifically item 1.10.1 relating to subclause 7(3) of Standard 1.2.8, changing ‘sugar’ to ‘sugars’ and 62g to 90g.</p> <p>As a general comment they do not believe there is any scientific reason why sugars need to be labelled on NIP, nor the inclusion of a sugars guideline, but understand there are other non-scientific pressures.</p>
National Council of Women of Australia	<p>They support the Proposal, with one exception. They believe enzymes should be treated as food additives and not processing aids, since as stated in the Proposal, ‘Codex and many other international food regulatory agencies consider some enzymes as food additives rather than processing aids’. They believe enzymes should be listed on labels, not left to the discretion of the manufacturer.</p>
BioSys Australia	<p>This submission relates specifically to the proposed amendment to the gluten claims; amendment 1.5.2, relating to subclause 16(2) and 16(3) of Standard 1.2.8. The information received did not comment directly on the proposed amendment but provided information on their rapid gluten analysis kits and the limits of detection of their assays to gluten in various matrices and various grain types. These analytical tests are relevant to determining whether food contains no more than 20 mg gluten /100 g of food (200 ppm) to qualify for a low gluten claim. The assay kit can detect gluten at levels >20 ppm or >200 ppm in a range of foods (the detection limits depend on the sample matrix).</p>
Ministry of Health, New Zealand	<p>They do not support the proposed amendment 1.5.2, relating to subclauses 16(2) and 16(3) of Standard 1.2.8. They do not agree to adding the words ‘and their products’ after ‘oats or malt’. They have received information that the proposed amendment will significantly reduce the range of foods that can carry a low gluten label and so be available to coeliacs.</p> <p>They further ask ANZFA to reconsider the labelling of gluten, since they have been led to believe there is no technological or analytical justification for separating oats and malt from other grains.</p>
Microbiological Diagnostic Unit, The University of Melbourne	<p>They had no comments on the proposed amendments, but raised other issues which they sought clarification on, that may need to be addressed in a future Omnibus. These issues related to Standard 1.6.1.</p> <ol style="list-style-type: none"> 1. Does subclause 3(3) need to be further expanded? The query they have is that an authorised officer may, under certain circumstances, take less than the prescribed number of samples for analysis. Is it understood, or does it have to be spelt out, that the sample fails if the level of microorganisms detected exceeds ‘m’ in a 2-class plan and ‘M’ in a 3-class plan? 2. Are the changes for standards for <i>Listeria monocytogenes</i> in meat paste and pate and <i>E. coli</i> for uncooked comminuted fermented meat products in Volume 2 compared to Volume 1 intentional or were they the result of having to meet the new format? They change the stringency of the standard.
Consumers’ Association of South Australia	<p>They support the comments made by the submission received from the National Council of Women.</p> <p>That is they believe enzymes should be treated as food additives and not processing aids, since as stated in the Proposal, ‘Codex and many other international food regulatory agencies consider some enzymes as food additives rather than processing aids’. They believe enzymes should be listed on labels, not left to the discretion of the manufacturer.</p>