

Application to amend Standard 4.5.1 of the Australian New Zealand Food Standards Code

3.1.2 Applicant details

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The Winemakers' Federation of Australia (WFA) is the national peak body for Australia's winemakers.

WFA has consulted with the Australian Grape and Wine Authority (AGWA) in the preparation of this application. The Australian Grape and Wine Authority (AGWA) is an Australian Government statutory service body for the Australian grape and wine community. It includes RD&E activities and market development and regulatory activities. They have supported the desirability of this change.

3.1.3 Purpose of the application

- (a) This Application is made to vary an existing Standard in the *Australia New Zealand Food Standards Code* (the Code); Standard 4.5.1 – Wine Production Requirements
 - a. Specifically, Article 5 (7) concerning the timing and purpose of the addition of water to wine, sparkling wine and fortified wine.
- (b) This application is also made to apply to vary Standard 2.7.4 Wine and Wine Product
 - a. Specifically, Article 2 Addition of other foods to wine during production, to amend point (d) to permit the addition of water to facilitate fermentation
- (c) This Application is made on behalf of the WFA, the peak industry body for the Australian Wine Industry and supported by the Australian Grape and Wine Authority (AGWA).

3.1.4 Justification for the application

At the Wine Industry Technical Advisory Committee (WITAC) meeting held on 4 August, the Australian Grape and Wine Authority (AGWA) raised an issue concerning the practice of adding water to high sugar must to dilute it and aid fermentation. The current restriction on water addition for Australian produced wine is in Standard of 4.5.1 of the Australia New Zealand Food Standards Code (the Code):

Wine, sparkling wine and fortified wine may contain added water in proportion not exceeding 70 mL/L where that water is necessary for the incorporation of any substance specified in clause 3 or clause 4, or where that water is incidental to the winemaking process and where the presence of water in wine is in conformance with good manufacturing practice.

The 7% limitation on the quantity of added water is a limitation specific to Australian wine, and the justification for adding water, in the case of Australian wine, is extended to use which is **incidental to the winemaking process in accordance with good manufacturing practice**.

We believe it is necessary to apply for a change to the Code to clarify the intent of the permission and explicitly enable the addition of water to dilute high sugar must to aid fermentation. This will ensure Australian wine producers be provided access to techniques enabling the production of the best wine possible from the grapes at their disposal.

Prior to 2009 water addition was limited to 3% and WFA submitted an application to the Code as this level was considered insufficient to cover all necessary incidental water incorporation given typical additive requirements and unavoidable winemaking practices such as pushing through transfer lines with water. This permission to add water does not, however, extend to the deliberate addition in order to lower the sugar concentration of incoming musts.

The issue that has now arisen is that with warm vintages, grapes with optimal flavour characteristics are increasingly likely to display historically high sugar content at harvest. This results not only from the trend towards higher average temperatures during the growing season, but also from earlier, more compressed harvests presenting dilemmas for scheduling of grape intake, and winery processing capacity. These ripe grapes are then subject to potential fermentation problems, with a consequential negative effect on wine quality. In recent vintages, both anecdotal information and evidence provided by the Australian Wine Research Institute suggests that there is widespread use of addition of water to must as an aid to fermentation.

Failure to clarify the Code, will make it likely that Australian producers will not be able to use water to aid fermentation, placing them at a disadvantage to our international competitors and making them liable to prosecution. Warmer vintages will continue to happen and this will increase the cost and risk factor to our producers.

Standard 2.7.4 also needs to be clarified to ensure consistency and equal treatment. This clarification would be to add to clause 2 (d) words to the effect of *...and/or to facilitate fermentation or when the addition of the water is incidental to the winemaking process*.

A. Regulatory impact information

1. Costs and benefits

There are no health costs or benefits that would arise from regulatory change as suggested by this application. There will be a reduction in costs of production, in particular for small businesses that currently find it logistically difficult and very expensive to source low sugar juice to reduce the sugar content pre-fermentation. The consumer and producer will benefit from this regulatory change as the costs of production will decrease and wine quality will improve. The government is also supportive of the change as it will prevent the unintended consequences from prosecutions for breaches of the Code. As the regulator responsible for ensuring compliance of exported Australian wine with the provisions of the Food Standard Code, the Australian Grape and Wine Authority (Wine Australia) supports the recommendation of WITAC to pursue amendment of that Code and acknowledges there are various alternative options to achieve the desired objective.

In their view, however, retaining a defined limit of 7% applying cumulatively to all extraneous water additions throughout the wine production cycle, including for those purposes currently authorized (incorporation of additives and “incidental” inclusion) and the proposed additional purpose (facilitation of fermentation), may not achieve the desired outcome.

It is entirely feasible that, across many Australian wine regions, grapes can increase in ripeness from, say, 15 Bé, to 17 or as much as 20 Bé within a very short time period even in the absence of substantial berry shriveling. Clearly a 7% addition would be insufficient to avoid fermentation problems in such cases. In those cases where a 7% addition may help alleviate fermentation problems no opportunity would remain to use water for other essential purposes as the legislated maximum would already have been utilized.

They suggest, therefore, that the 7% volume limitation on additions for currently authorized purposes be retained. They further propose, however, an amendment that would allow for water to be added to grape must in order to facilitate fermentation provided the must is not diluted below 15 Bé.

The advantages of this proposal are as follows:

- It involves no extension of the current permissions relating to the incorporation of additives and for incidental inclusion.
- It ensures additional permission is restricted to the purpose for which it is designed, i.e. the facilitation of fermentation, rather than dilution of wine
- It imposes a volumetric limit by defining a floor beyond which the juice cannot be diluted.
- The floor (15 Bé) is higher than that applying to one of our major competitors (13 Bé in USA)
- The proposed amendment provides additional clarity without having to change existing text in the Code.

WFA supports this suggestion which will reduce the regulatory impact and enhance the ability of the sector to produce quality wine in the face of climate change. This amendment would be to Standard 4.5.1 – Wine Production Requirements

Specifically, Article 5 (7) would require an additional point – water may to be added to grape must in order to facilitate fermentation provided the must is not diluted below 15 Bé.

Standard 2.7.4 would not require the Beaume level, so as to recognise the differing legal requirements in other countries and not to restrict trade. Rather an amendment to in clause 2 (d) words to the effect of *...and/or to facilitate fermentation or when the addition of the water is incidental to the winemaking process.*

2. Impact on international trade

This will have no impact on imported food into Australia or New Zealand. Many producing countries already have such permissions for the addition of water when manufacturing wine. Testing of imported wine for water addition is not possible.

3.1.5 Information to support the application

Water can be used to dilute sugar levels to facilitate normal fermentation (i.e. prevent ferments from ‘sticking’ and allow them to go to complete dryness within a reasonable time period under

normal winemaking conditions). We requested data from the AWRI helpdesk database since 2005 where queries are received and logged throughout the year. The data represents wineries who have contact the helpdesk requesting information regarding stuck, sluggish or slow primary ferments. This data only represents wineries who have contacted the AWRI and obviously does not encompass every stuck ferment that winemakers in Australia might have experienced in that particular year, therefore this data is considered an under representation of the true stuck or sluggish fermentations that occur each year. As extreme weather such as heat waves during vintage can be one of many causal factors involved in increased incidence of stuck or sluggish fermentations, it was decided to correlate this data against historical temperatures records from the Bureau of Meteorology. The data indicated that the warmer vintages were correlated with increased fermentation issues.

We also contacted major yeast suppliers who reported that the number of 'stuck' ferments arising from warmer vintages was increasing.

There are no public health or safety issues arising from the proposed regulatory change. Water addition prior to fermentation poses no threat to public health and safety.

There are no adverse consumer issues arising from this regulatory change as it will provide better quality wine.

The wine producers have a clear interest in this regulatory change allowing them to adopt production methods to a changing climate.

3.1.6 Assessment procedure

WFA believes that the General Assessment procedure is appropriate for this application.

3.1.7 Confidential commercial information (CCI)

There is no confidential commercial information supplied in this Application.

3.1.8 Exclusive capturable commercial benefit (ECCB)

There is no exclusive capturable commercial benefit from the proposed change to the food standards code.

A.1.9 International and other national standards

A. *International Standards*

Not applicable.

B. *Other national standards or regulations*

All wine sold in Australia must comply with the Australia New Zealand Food Standards Code ("the Code"). The following, from Standard 1.3.3 applies generally to all foods:

The following processing aids may be used in the course of manufacture of any food at a level necessary to achieve a function in the processing of that food –

(a) foods, including water

This would appear to allow water to be used for adjusting high-sugar musts. Further provisions in the Code apply specifically to wine - in particular, Standard 2.7.4 provides for the following to be added to wine during production;

Water, where the water is necessary to incorporate any permitted food additive or processing aid.

This provision imposes no limitation on the amount of water that can be added, but is specific regarding the reason for the addition; the water must be added for the purpose of incorporating permitted substances.

Winemaking regulations in the USA provide that “water may be used to flush equipment during the crushing process or to **facilitate fermentation** but the density of the juice may not be reduced below 22 degrees Brix.¹

TTB Title 27 of the United States Code of Federal Regulations Section 24.176: Crushing and fermentation

(a) Natural Wine Production

“Water may be used to flush equipment during the crushing process or to facilitate fermentation but the density of the juice may not be reduced below 22 degrees Brix. However, if the juice is already less than 23 degrees Brix, the use of water to flush equipment or facilitate fermentation is limited to a juice density reduction of no more than one degrees Brix.”

“Water may be used to rehydrate yeast to a maximum of two gallons of water for each pound of yeast; however.....the maximum volume increase of the juice after the addition of rehydrated yeast is limited to 0.5%.”

TTB Title 27 of the United States Code of Federal Regulations Section 24.246 Materials authorized for the treatment of wine and juice.

(2) Where water is added to facilitate the solution or dispersal of a material, the volume of water added, whether the material is used singly or in combination with other water based treating materials, may not total more than one percent of the volume of the treated wine, juice, or both wine and juice, from which such wine is produced.

The bilateral agreement on wine between the European Union and the USA includes a condition that wine “contains no.....added water beyond technical necessity”.²

The World Wine Trade Mutual Acceptance Agreement on Oenological Practices permits the sale of wine made in the United States with the addition of water pre-fermentation, on the Australian market.

¹ Title 27 Part 24 Section 24.176 Code of Federal Regulations

² Article 3 of that Agreement

The Agreement between the *European Community and Australia on Trade in Wine* does not regulate the addition of water.

3.1.10 Statutory declaration

Attached.

3.1.11 Checklist

General requirements (3.1)		
Check	Page No.	Mandatory requirements
		3.1.1 Form of application
		<ul style="list-style-type: none"> ✓ <i>Application, abstracts and other key documents in English</i> ✓ <i>Executive Summary (separated from main application electronically and in hard copy) Page (i)</i> ✓ <i>Relevant sections of Part 3 clearly identified</i> ✓ <i>Pages sequentially numbered</i>
✓		<ul style="list-style-type: none"> ✓ <i>Electronic copy (searchable)</i> ✓ <i>1 hard copy</i> ✓ <i>Electronic and hard copy identical</i> ✓ <i>Hard copy capable of being laid flat</i> ✓ <i>All references provided (in electronic and hard copy)</i>
✓		3.1.2 Applicant details Page 1
✓		3.1.3 Purpose of the application Page 1
✓		3.1.4 Justification for the application Page 1
		<ul style="list-style-type: none"> ✓ <i>Regulatory impact information Page 2</i> ✓ <i>Impact on international trade Page 3</i>
		3.1.5 Information to support the application Page 3
		<ul style="list-style-type: none"> ✓ <i>Data requirements</i>

3.1.6 Assessment procedure **Page 4**

✓ *General*

✓ ☐ *Major*

☐ *Minor*

☐ *High level health claim variation*

3.1.7 Confidential commercial information **Page 4**

☐ *Confidential material separated in both electronic and hard copy*

✓ ☐ *Formal request including reasons*

☐ *Non-confidential summary provided*

3.1.8 Exclusive Capturable Commercial Benefit **Page 4**

✓ ☐ *Justification provided*

3.1.9 International and other national standards **Page 4**

✓ ☐ *International standards*

✓ *Other national standards* **Page 5**

✓ 3.1.10 Statutory Declaration **Page 9**

✓ 3.1.11 Checklist/s provided with application **Page 6**

✓ ☐ *3.1 Checklist*

✓ *All page number references from application included*

✓ *Any other relevant checklists for Parts 3.2—3.7* **Page 8**

Checklist for Standards related to food production

This Checklist is in addition to the Checklist for Guideline 3.1 and will assist you in determining if you have met the information requirements as specified in Sections 3.7.1–3.7.2.

Food Safety Standards (3.7.1)		
Check	Page No.	Mandatory requirements
<input type="checkbox"/>		A.1 Public health and safety data
<input type="checkbox"/>		B.1 Projected costs to food industry
Food Processing and Primary Production (3.7.2)		
Check	Page No.	Mandatory requirements
<input checked="" type="checkbox"/>		A.1 Public health and safety data