



Canberra Office
Level 1/ NFF House
14-16 Brisbane Avenue
Barton ACT 2600
T +61 2 6239 8300 | **F** +61 2 6260 7900 | **W** www.wfa.org.au

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Amanda Tritt
Project Manager
Labelling and Information Standards
Food Standards Australia New Zealand

Additional information for Application A1026

Dear Amanda

Thank you for your email advising me of your acceptance to Application A1026 to consider changing the minimum alcohol content for wine and sparkling wine in clause 5 of Standard 4.5.1 from 80 mL/L to 45 mL/L).

I have provided the attached information in response to your questions regarding the amendment.

If you require any additional information please give me a call.

Yours Sincerely

A handwritten signature in dark ink, appearing to read 'Tony Battaglene', with a long horizontal flourish extending to the right.

Tony Battaglene
General Manager, Strategy & International Affairs

Attachment: Information requested to amend Application A1026

1. As noted in your letter, you previously submitted an Application to FSANZ in 2009 seeking to make a number of amendments to Standard 4.5.1 (Application PA1027 – Revision of Winemaking Requirements; this Application included the request to change the minimum alcohol content of wine to 4.5% alc/vol). As the information relating to the minimum alcohol content is relevant to the current Application A1026, FSANZ requires that it be formally resubmitted for Application A1026. Please ensure the information is up-to-date and includes any further information or developments since the previous Application.

Standard 4.5.1 was prepared primarily from the old provisions of former Standard P4 in the Australian *Food Standards Code*, in order to maintain the terms of the trade agreement with Europe that was in place at the time. As a new Agreement with the European Union (EU) has now been established, there are opportunities for Australian wine exporters to vary some winemaking practices in line with advances made in other countries. Allowing for lower alcohol contents in wines is an example of such an opportunity to open up potential new markets by adjusting winemaking practices.

Clause 5 of Standard 4.5.1 specifies a minimum alcohol content for wine and sparkling wine of 8% alc/vol (80mL/L of ethanol). There is no minimum alcohol content stipulated in Standard 2.7.4, permitting all imported wine to be sold in Australia. The EU has a minimum alcohol requirement of 9% v/v but grants specific derogations for products such as Asti Spumante (5.5-6.0 % v/v) and Beerenauslese Rieslings (6.5% v/v).

COUNCIL REGULATION (EC) No 479/2008 was introduced on 29 April 2008 amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999. This regulation establishes the framework for regulation of wine in the European Union.

ANNEX IV of (EC) No 479/2008 CATEGORIES OF GRAPEVINE PRODUCTS defines wine as:

1. Wine

Wine shall be the product obtained exclusively from the total or partial alcoholic fermentation of fresh grapes, whether or not crushed, or of grape must. Wine shall:

(a) have, whether or not following application of the processes specified in point B of Annex V, an actual alcoholic strength of not less than 8,5 % vol. provided that the wine derives exclusively from grapes harvested in wine-growing zones A and B referred to in Annex IX, and of not less than 9 % vol. in other wine-growing zones;

(b) have, by way of derogation from the otherwise applicable minimum actual alcoholic strength, where it has a protected designation of origin or geographical indication, whether or not following application of the processes specified in point B of Annex V, an actual alcoholic strength of not less than 4,5 % vol.

An exchange of letters between the Australian Wine and Brandy Corporation and the European Commission's Directorate-General for Agriculture and Rural Development confirmed that Australian products consisting of fermented grape juice with actual

alcohol contents greater than 4.5% v/v could legally enter the Community and be designated as wine.

There are imported wines such as Moscato which are sold in Australia at alcohol levels down to 5% v/v. The new definition would level the playing field and make it clear that Australian 'wine' above 4.5% could also be described as 'wine' as are the European products sold on our market. The proposed amendment would remove a significant technical barrier to innovation in Australian wines. There is also a current oversupply of wine and wine grapes and an expansion of consumer choice with regard to alcohol content of wines could be valuable to the wine industry.

There is interest in lower alcohol wines in the USA and interest has also been expressed by some supermarkets in the United Kingdom.

2.3 Justification for the Application (as per section 3.1.4 of the Application Handbook December 2008)

The proposed amendment to Standard 4.5.1 will substantially address a number of regulatory disadvantages and provide a situation that is no less favourable for Australian wine exporters than that available for competitors from other countries.

Australia has sought to harmonise Wine Regulation with the EU by virtue of the new Wine Agreement between Australia and the EU signed in December 2008.

The *Australia – European Community Agreement on Trade in Wine* signed in Brussels on 1 December 2008 is a formal international agreement that regulates the trade in wine between Australia and the European Community. The *Australia – European Community Agreement on Trade in Wine* will require legislative amendments to the *Australian Wine and Brandy Corporation Act 1980* and *Trade Marks Act 1995* so that Australia can meet its obligations. It is expected that the new agreement will take effect in mid-2010. At that time it will become a treaty. The Legislation was introduced into the House of Representatives on the 24th May and passed the Senate on 17th June 2010. The Agreement will then take effect one month and one day after the exchange of letters between the European Union and Australia which will occur when the Bill receives Royal Assent.

Standard 4.5.1 was prepared primarily from the old provisions of former Standard P4, in order to maintain the terms of the trade agreement with Europe that was in place at the time. As a new Agreement with the EU has now been put in place, there are opportunities for Australian wine exporters to vary some winemaking practices in line with advances in other countries.

2.4 Information to Support the Application (as per section 3.1.5 of the Application Handbook December 2008)

- WFA as the peak industry body representing the Australian producers of wine and wine products is putting forward this Application. The New Zealand wine industry supports this Application and will provide a written letter of support. The wine industries of Argentina, Chile, Canada, South Africa and the United States have been consulted in the preparation of this application. This change to the application seeks to
- reduce the minimum alcohol content of wine to 4.5% volume/volume (v/v).

This Application proposes to reduce the current minimum alcohol content in Standard 4.5.1 for wines and sparkling wines that are produced in Australia from 8% to 4.5% vol/vol. This will permit low alcohol wines to be labelled as wine overcoming a current 'grey area' in the code.

Clause 5 of Standard 4.5.1 specifies a minimum alcohol content for wine and sparkling wine of 8% alc/vol (80mL/L of ethanol). There is no minimum alcohol content stipulated in Standard 2.7.4, permitting all imported wine to be sold in Australia.

The European Union has a minimum alcohol content of 9% v/v with 'derogations' (effectively restrictions) for regions that can produce wines below 9% alcohol v/v.

The Australian Wine and Brandy Corporation has received confirmation in advice from the European Commission's Directorate-General for Agriculture and Rural Development that products consisting of fermented grape juice with actual alcohol contents greater than 4.5% v/v could enter the Community and be designated as wine (see Attachments 2 and 3).

Wines produced in Europe with alcohol contents below 8% v/v can currently be sold in Australia, but Australia cannot legally sell such products labelled as wines.

Standard 4.5.1 – Wine Production Requirements includes the following provision in clause 5.

(1) *Wine and sparkling wine must contain no less than 80 mL/L of ethanol at 20°C.*

This Application is specifically to change the value of 80 to a lower value of 45.

2.5 FSANZ objectives

Section 18 of the FSANZ Act sets out FSANZ's objectives (in descending priority order) in developing food regulatory measures and variations of food regulatory measures as:

- (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.

This Application is to amend currently permitted winemaking practices in Australia, as prescribed in Standard 4.5.1. The safety of wine and the provision of adequate information to consumers are regulated under the general standards for food and the standards for alcoholic beverages in the *Australia New Zealand Food Standards Code* which apply to both domestically produced and imported wines.

In developing food regulatory measures and variations of food regulatory measures, FSANZ 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; and
- (e) any written policy guidelines formulated by the Ministerial Council.

This Application proposes to harmonise Australian production of wine with those of our international trading partners to allow for more innovation in Australian winemaking practices.

2.6 Australian Wine and Brandy Corporation Objectives

The Australian Wine and Brandy Corporation (AWBC) has the following objectives under the *Australian Wine and Brandy Corporation Act 1980*:

- (a) to promote and control the export of grape products from Australia; and
- (b) to promote and control the sale and distribution, after export, of Australian grape products; and
- (c) to promote trade and commerce in grape products among the States, between States and Territories and within the Territories; and
- (d) to improve the production of grape products, and encourage the consumption of grape products, in the Territories; and
- (e) to enable Australia to fulfil its obligations under prescribed wine-trading agreements; and
- (f) for the purpose of achieving any of the objects set out in the preceding paragraphs:
 - (i) to determine the boundaries of the various regions and localities in Australia in which wine is produced; and
 - (ii) to give identifying names to those regions and localities; and
 - (iii) to determine the varieties of grapes that may be used in the manufacture of wine in Australia.

The WFA contends that this Application is needed under AWBC objectives (a), (b) and in particular (e) above.

2.7 Nutritional Implications

Not applicable, although it should be noted that the ability to market low alcohol wines as wine may reduce the calorific intake of some consumers as there is a move towards lower alcohol wine by many consumers.

2.8 Dietary Implications

Not applicable

2.9 Advantage to the Consumer

Consumers in Australia will benefit by having greater choice in terms of accessibility to low alcohol wine products as an alternative to the currently available imported low alcohol wines and to competitive products in the category of alcoholic beverages containing less than 8% alcohol/volume.

The products may also promote awareness of the problems associated with alcohol abuse.

2.10 Assessment Procedure (as required by section 3.1.6 of the Application Handbook December 2008)

This Application is unpaid and if accepted by the Administrative Assessment, it should be placed on the FSANZ Work Plan. The Application is expected to follow the General Procedure when activated.

2.11 Confidential Commercial Information (as required by section 3.1.7 of the Application Handbook December 2008)

There is no confidential commercial information in this Application.

2.12 Exclusive Capturable Commercial Benefit (as required by section 3.1.8 of the Application Handbook December 2008)

There will not be any exclusive capturable commercial benefit resulting from the progression of this Application.

PART 3 REGULATORY/LEGISLATIVE IMPLICATIONS

3.1 International standards (as per section 3.1.9 of the Application Handbook December 2008)

Standard 4.5.1 applies only to wine produced in Australia so this is not applicable.

There is no Codex Alimentarius Commission standard for wine.

The following table summarises the minimum alcohol requirements for wines in the major wine trading countries.

Country	Minimum alcohol (vol/vol)	Comments
Australia	8%	For Australian produced wine
Argentina	7%	
Canada	Not specified	
Chile	10%	
China	7%	
Europe	9%	With derogations for certain wines (styles or regions) to lower minimum alcohol requirements, all > 4.5%
New Zealand	Not specified	
South Africa	Not specified	
USA	No minimum specified	For wines with <7% alcohol ingredient labelling is required

The basis for the European derogation for 4.5% minimum alcohol content in certain wines is outlined in the letter of 24 October 2007 from Mr Steve Guy to Mr Luc Berlottier (Attachment 2)

Part 4 Regulatory Impact Statement

The minimum alcohol requirements for wine in Australia's major wine markets are as follows:

Australia in Clause 5 of Standard 4.5.1 specifies a minimum alcohol content for wine and sparkling wine of 8% alc/vol (80mL/L of ethanol). There is no minimum alcohol content stipulated in Standard 2.7.4, permitting all imported wine to be sold in Australia.

Europe requires 9% minimum but has derogations for wines to as low as 4.5%;

The USA has no minimum specified but ingredient labelling is required if below 7%;

Canada has no minimum specified; and

New Zealand has no minimum specified.

This application is basically about housekeeping and tidying up elements in the standard no longer needed. One of the more significant anomalies it seeks to amend is to lower the alcohol content of wine. Currently there is a grey area where imported wine has no minimum alcohol level, but Australian produced wine can not be called wine if it is under 8% alcohol. The wine industry wishes to promote the responsible consumption of alcohol and notes there is a strong consumer demand for lower alcohol products. Being able to call lower alcohol products made according to standard 4.5.1 'wine' will enhance this objective.

If we couple this with prescribing the name 'wine based beverage' and removing the use of 'wine product' consumers will be able to drink low alcohol products with confidence that it is wine and not an imitation product.

4.1 Consumers

Consumers in Australia will benefit by having greater choice in terms of accessibility to wine products as an alternative to the currently available imported wines and to competitive products in the category of alcoholic beverages.

Consumers in Australia will benefit by having greater choice in terms of accessibility to low alcohol wine products as an alternative to the currently available imported low alcohol wines and to competitive products in the category of alcoholic beverages containing less than 8% alcohol/volume.

The products will also promote awareness of the problems associated with alcohol abuse.

4.2 Industry

For the Australian wine industry the benefits of the progression of this Application include addressing a current trade disadvantage, alignment of Australian requirements with those of our major wine export destination, removal of a technical barrier to innovation in 'light wine' or 'low alcohol wine' development and alignment of the technical regulation with a social responsibility to provide lower alcohol alternatives. There is also a current oversupply of wine and wine grapes in Australia and an expansion of consumer choice could be valuable.

The risks to the industry include possible loss of some markets due to the industry moving away from the traditional production methods for wine, potential for abuse of regulatory requirements by use winemaking practices that are not permitted to produce lower alcohol wines. The WFA contends that these risks are small and manageable.

4.3 Government

The increased availability of lower alcohol wine products will fit with government initiatives associated with reducing alcohol abuse.

PART 5 ANALYTICAL PROCEDURES

No changes to analytical procedures for alcohol determination in wine or wine products are required as this Application.

PART 6 DETAILS OF REASONING

This Application is to bring the Australian regulations for minimum alcohol contents of wine in line with the requirements in the rest of the world, in particular the EU, in order to facilitate trade.

PART 7 MANUFACTURING AND PUBLIC HEALTH

7.1 Manufacturing process

During the manufacture of wine, grapes are crushed and the resulting juice is fermented.

Alcohol is produced from fruit sugars by the action of yeast and there are variations in the quantity of alcohol produced due to differences in batches for grape sugar contents and also due to seasonal differences in grape production from year to year.

Traditional wines are produced in Australia at alcohol contents above 8%. Lower alcohol wines can be produced by limiting the supply of fruit sugars, stopping the fermentation prior to conversion of all the sugars to alcohol or removal of alcohol from the wine. Picking grapes prior to full ripening lowers alcohol production by limiting sugars, but raises acidity levels. Stopping the fermentation process prior to conversion of all sugars to alcohol is suitable mainly for sweet wines. Volatile flavour components in wine such as esters and higher alcohols are mainly produced during fermentation so processes that limit the fermentation process will result in loss of flavours.

Removal of alcohol from wine can be achieved by processes involving heat, by the use of membrane technologies or by newer technologies using reverse osmosis or spinning cones. Loss of quality in terms of mouthfeel and aroma is more of a problem with wine than it is with beer. Low temperature pasteurisation and short time pasteurisation techniques still lead to loss of flavour components and production of some undesirable flavours in wine. Technologies that can be used to remove alcohol from wine without heating can also remove other volatile flavour components.

These technical difficulties can be overcome using techniques such as adding back grape-derived components and blending, within the constraints of varietal labelling, but Australian manufactured products with less than 8% alcohol cannot be sold as wine.

7.2 Public health and safety

Production of lower alcohol wines is in alignment with public health initiatives to reduce alcohol abuse.

8 References

<http://www.newser.com/archive-technology-news/1G1-165235012/tesco-meets-demand-for-low-alcohol-winedrinksbrief-article.html>

<http://business.timesonline.co.uk/tol/business/law/article5698621.ece>

<http://www.theage.com.au/news/epicure/proof-positive/2008/06/16/1213468307826.html>

2. **We note that EC Regulation 1493/1999 has been repealed by EC Regulation 479/2008. Please therefore include updated information relating to the EC Regulations.**

COUNCIL REGULATION (EC) No 479/2008 was introduced on 29 April 2008 amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999. This regulation establishes the framework for regulation of wine in the European Union.

COMMISSION REGULATION (EC) No 606/2009 of 10 July 2009 is the implementing regulation and lays down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions. Both regulations are attached.

3. Please provide any additional information to further develop the argument of why a specific minimum of 4.5% alc/vol is required for Australian wines.

See above

In addition to the above, please provide the following information relating to your initial request to amend the alcohol strength tolerances for wine and wine products from 1.5% and fortified wine from 0.5% to 0.8% by volume:

1. Please confirm if the tolerance of 0.8% alc/vol is intended to apply to wine and wine products containing less than 6.5% alc/vol.

Ans. Yes

2. Please also confirm if the tolerance of 0.8% alc/vol is intended to apply to 'sparkling forms' of wine.

Ans. Yes

3. The Application states 'the NZ wine industry supports this Application'. Please clarify who this is (e.g. the NZ Winegrowers body and/or other industry groups?)

Ans. New Zealand Winegrowers supports this application.

New Zealand Winegrowers was established in March 2002 as the joint

initiative of the New Zealand Grape Growers Council, representing the interests of New Zealand's independent grapegrowers, and the Wine Institute of New Zealand, representing New Zealand wineries.

New Zealand Winegrowers is governed by a Board of Directors of 12, comprising 7 representatives from the Institute and 5 representatives from the Council. New Zealand Winegrowers is funded by levies collected by the Council and the Institute as well as from user pays activities and sponsorships.

Winemakers and grape growers are members of New Zealand Winegrowers as a result of their membership of either the Grape Growers Council or the Wine Institute.

4. The Application states 'The United States industry has advised they will have no problems in meeting the new tolerance.

Both the Wine Institute of California and Wine America have been consulted in the preparation of this application and both organisations have advised they have no concerns about trade implications of meeting a new tolerance in Australia.

5. To assist with cost/benefit considerations, please indicate how broadly the WFA represents the Australian wine industry, and in particular, how broadly small wine producers are represented (e.g. number of producers, volume, percentage?)
6. Page 6 of the Application states 'For fortified wines the tolerances are requested to be relaxed....but neither the products nor the labels actually need to be changed to meet the new requirement.' However, page 9 of the Application states 'The marginal increase from 0.5% to 0.8% for fortified wines is also unlikely to result in any changes for Australian produced fortified wines apart from labelling for fortified wines exported to the EU.' There appears to be a discrepancy between these two statements as to whether the labels would need to be changed. Please therefore clarify if any labelling changes would be required for domestic fortified wines and exported fortified wines due to the amended tolerance.

There is no conflict with the statements. The change of the tolerance from 0.5% to 0.8% for that very small category of Australian fortified wine is not expected to make any difference to wine making practice or labeling practice. We do not believe that there will be any impact on labeling as most producers meet the (current) European tolerance of 0.5% for all wine. The amendment of the European tolerance to 0.8% and the amendment of the Australian requirement to harmonise with Europe should not have any practical impact.

We would appreciate it if you could provide the requested information as soon as possible, preferably by Tuesday 22 June. Please contact me if you have any concerns with this timeframe or wish to discuss any of these matters.