

8 February 2011

Project Officer Proposal P1013  
Food Standards Australia New Zealand  
PO Box 10559  
The Terrace  
WELLINGTON 6036

FS350-118-1013

Dear Sir/Madam

## **Proposal P1013 – Code Maintenance IX First Assessment Report**

Thank you for the opportunity to comment on this proposal. The Ministry of Agriculture and Forestry (MAF) has the following comments to make. Please note that where MAF has not commented in relation to the draft variations, we agree with the change.

### General comments

The website ([www.nzfsa.govt.nz](http://www.nzfsa.govt.nz)) was updated at the end of January 2011, so any links to specific pages on our website in the Food Code may need updating to reflect this change.

### Comments on Attachment 1 – Draft Variations to the Australia New Zealand Food Standards Code

**[5.4]** – Cocos nucifera should be in italics

**[6.4]** – We agree with the intent of this change. However, the provisions in the Table to clause 6 also apply to clause 6 (1) (b).

Editorial note – the inclusion of ‘meat’ in the list of ingredients is not helpful here. Canned spaghetti does not usually contain meat (unless it is ‘canned spaghetti and sausages’). NZFSA suggests that ‘meat’ is replaced by a tomato based ingredient.

**[7.2]** – The examples could be updated by providing dates that are closer to 2011.

**[8.1]** – The proposed Purpose statement states ‘use or storage’. In the existing Food Code, the Purpose refers to use and/or storage. In our view, either directions for use, or directions for storage, or direction for both use and storage could apply. The proposed Purpose statement could be amended to reflect this, as per the drafting guidance provided by the Office of Legislative Drafting and Publishing (OLDP) as part of the Legislative Audit of the Food Standards Code.

[9.5] – There is an error in the table, for the ‘Dietary fibre, total’ entry. There should only be one asterisk.

[9.7] – Agree with the intent of the change but the new drafting is long and potentially confusing. MAF has provided the following suggested text in relation to clause 11:

*The label on a package of food intended to be prepared or consumed with a least one other food, may include an additional column at the right hand side of the panel, specifying, in the same manner as set out in the panel —*

- (a) a description of the additional food; and*
- (b) the quantity of the additional food; and*
- (c) the average energy content of the combined foods; and*
- (d) the average quantity of nutrients contained in the combined foods; and*
- (e) the average quantity of biologically active substances contained the combined foods.*

The title to Clause 10 could also be amended, i.e. Food *intended* to be drained before consumption.

[13.1] – The word ‘processed’ should be deleted in clauses 3(2), 3(3), and 3(4), because the word may limit permissions made in schedule 1 categories when this is not intended, i.e. there may be some argument about whether a food is a processed food rather than being in a category permitted to use schedule 2, 3 or 4 additives.

[13.10] – The fruit and vegetables may be *both* peeled and cut. When both could apply (as in the amendment to standard 1.2.6), this should be specified. The proposed drafting does not allow for both to apply.

[13.17] – Flavour enhancers and flavours, could enhance *both* the taste and odour. When both could apply, this should be specified.

[14.4] – The removal of ‘and/or’ in the table to clause 3 applies to the entry “Fruit and/or vegetable drinks...”. By changing this to ‘or’, there appears to be no ability now to mix the fruit and vegetable drink, ie to have a fruit *and* vegetable drink. Is this the intention? We refer once again to the OLDP drafting guidance.

[15.5] – Lactoperoxidase may reduce **and** inhibit the bacterial population, but this is not reflected in the proposed drafting. The phrase ‘or both’ is required.

[15.6] – MAF suggests that the permission to brand meat is retained in standard 2.2.1, as it does not appear to meet the requirements as a processing aid (as the stamp may be performing a function in the final food).

[16.2] – MAF agrees that the Purpose statement should be amended. We note the amended clause 1 (Application), and query the use of the term ‘novel food **substances**’ under clause 1 (d). This is not a term that is defined in the Code. We assume that such a term is intended to reflect the point that not all novel foods need a specification for identity and purity (such as whole foods).

Clause 2 continues to use the phrase (*if any*), in relation to relevant monographs. This appears incorrect, as the effect of clause 2 is that a monograph will apply - either one in the Schedule to the Standard, or one from another source. We therefore question the continued inclusion of the term ‘if any’.

[17.5] – We agree with the clarification for chocolate and cocoa products. MAF has had a similar difficulty with the entry for arsenic, and cereals. It is not clear if ‘cereals’ applies to bran fractions, and processed cereal products such as breakfast cereals. This could be clarified in a future amendment to the Code.

[17.17] – The units in column 3 in the table to clause 5 are not expressed consistently with the tables in clauses 3 and 4 (where mg/kg is not in the column heading but expressed after each value).

[21.3] - We agree with the solution to this issue concerning the entry for ‘unpasteurised milk’, however the issue is not fully explained in the document that gives the detail to each amendment. Issue 84 explains another issue in relation to standard 1.6.1, but there is no commentary on the reason for the amendment to the entry for ‘unpasteurised milk’.

[23.2] – MAF is concerned that the current clause 4(2), that prohibits certain types of offal, does not appear to be reflected in the proposed drafting.

[36.3] – MAF does not support this change, and our reasoning is provided under the response to question 8.

[37.1] – The proposed drafting does not appear to link correctly to the second sentence of the Purpose statement. The labelling requirements in the second sentence do not need to be repeated.

[38.1] – We agree that the table should be redrafted. It would be even clearer if the words ‘*but less than 1.15% alcohol by volume*’ were added after ‘Beverages containing 0.5% or more alcohol by volume’.

[39.1] – We question if the phrase ‘other foods’ is correct – should this be ‘other food ingredients’?

[44.4] – To ensure consistency with clause 16(2) (a) to (d), this could read ‘expressed in weight per 100 ml of infant formula product that has been reconstituted according to directions’.

Comments on Attachment 2 – Draft Variations to Editorial Notes in the Australia New Zealand Food Standards Code

[9] – MAF suggests that the weblink to fish names is replaced by another link on our website. This link relates to New Zealand fish names. The text preceding the weblink would also need to be rephrased, so that it is consistent with the document it relates to, and the change from NZFSA to MAF. The suggested new text is as follows:

Common, Maori, and scientific names for fish are available from the MAF website at <http://www.foodsafety.govt.nz/industry/sectors/seafood/fish-names/index.htm>

MAF response to questions for submitters posed by FSANZ in Proposal P1013

MAF offers comment on the following questions. Industry are better placed to comment on questions 1, 2, 4, 6, 7 and 9, and question 10 relates to the Australian wine industry.

3. MAF considers that there needs to be consistency with how other numbers are rounded in the Food Code. Other numbers required on food labels are not required to be rounded, whereas the proposed amendment is prescriptive in requiring rounding for levels of characterising ingredients and components at levels greater than 5%. It may therefore be preferable to maintain the status quo, so that the rounding is optional.

5. MAF agrees that all current references in clauses 2 and 3 of standard 1.3.4 be maintained in addition to those proposed as updated references. This will ensure the widest coverage of substances (especially for processing aids, which may not have a JECFA specification).

8 MAF is of the view that the proposed amendment in relation to the compositional requirements for bottled waters is beyond the scope of a code maintenance proposal. Some producers in New Zealand (those who are not members of the Australasian Bottled Water Institute) may not be aware of this proposed change, as the issue has not been consulted on as an application. MAF suggests that the issue is addressed within Application A1043.

Additional comment for consideration under a future Code Maintenance proposal

Standard 2.9.1, clause 7 and 8. Clause 7 (1)(b) states that: *Any nutritive substances listed in column 1 of the Table to this clause may be added to an infant formula product provided that – the total amount of the nutritive substance in the infant formula product is no more than the added and any naturally occurring amount specified in column 4 of the table.* This infers that

the total maximum amount of nucleotide 5' – monophosphates that are permitted to be present in infant formula is 1.76mg/100kJ (0.38 + 0.6 + 0.12 + 0.24 + 0.42mg/100kJ). However in Clause 8, it states that infant formula product must contain no more than 3.8mg/100kJ. MAF would like to know if this needs to be corrected in a future Code maintenance proposal, or if there is an explanation for this difference in values.

Yours sincerely

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