

**29 June 2015**  
**[13–15]**

## Approval Report – Application A1103

### Citric & Lactic Acids as Food Additives in Beer and Related Products

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Food Standards Australia New Zealand (FSANZ) has assessed an application made by DB Breweries Limited, New Zealand to permit the use of citric acid and lactic acid as food additives (acidity regulators) in beer.

On 16 January 2015, FSANZ sought submissions on a draft variation and published an associated report. FSANZ received five submissions.

FSANZ approved the draft variations on 18 June 2015. The Australia and New Zealand Ministerial Forum on Food Regulation<sup>1</sup> (Forum) was notified of FSANZ's decision on 26 June 2015.

This Report is provided pursuant to paragraph 33(1)(b) of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

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<sup>1</sup> convening as the Australia and New Zealand Food Regulation Ministerial Council

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### Supporting document

The following document which informed the assessment of this Application is available on the FSANZ website at <http://www.foodstandards.gov.au/code/applications/Pages/A1103CitricandLacticAcidsFAinBeer.aspx>

SD1 Risk and Technical Assessment

## Executive summary

Under Application A1103, DB Breweries Limited, New Zealand sought permission to add citric and lactic acid as food additives (acidity regulators) to beer and related products. This required an amendment to Standard 1.3.1 – Food Additives of the Australia New Zealand Food Standard Code (the existing Code).

A food additive may only be added to food if it is expressly permitted in Standard 1.3.1 of the existing Code. Also, additives can only be added to food in order to achieve an identified technological function and according to Good Manufacturing Practice (GMP). Currently, citric acid and lactic acid are not listed for use in the food category 'beer or related products' in Standard 1.3.1. However, they are permitted to be added as food additives to other alcoholic beverages (wine, fruit and vegetable wines, and spirits) and a large range of foods, at levels consistent with GMP.

The purpose of adding these food acids in beer production is to reduce the pH for lower strength and flavoured beers. Such acidity adjustment can improve the flavour profile of these types of beer.

Citric acid and lactic acid are substances of very low toxicity and occur in many foods e.g. in lemon/orange juice and cheese/yoghurt respectively. FSANZ's risk assessment concluded that adding citric and lactic acid to beer and related products is technologically justified and safe. As there is no risk to health and safety from their use under GMP, it is not considered necessary to set maximum levels for citric and lactic acid in these products.

Citric and lactic acids are permitted to be added (at GMP) to beers and related food categories in the food regulations of other countries (USA, Canada and Europe). They are also permitted under the Codex Alimentarius General Standard for Food Additives (GSFA). Permission in the Code would provide consistency with international regulations and trading partners.

FSANZ has approved a revision of the *Australia New Zealand Food Standards Code* via Proposal P1025 (the revised Code).<sup>2</sup> The revised Code will replace the existing Code on 1 March 2016. The requirements in Standard 1.3.1 of the existing Code are replicated in the revised Code.

FSANZ prepared draft variations to the existing and revised Codes to permit the food additives citric and lactic acids to be added to beer and related products according to GMP. A call for submissions was publically released in January 2015. All five submitters supported the draft variation, including three from the food industry and two Government departments.

Following consultation, the FSANZ Board considered the proposed variations taking into account the submissions and approved draft variations to both the existing and revised Codes.

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<sup>2</sup> <http://www.foodstandards.gov.au/code/proposals/Pages/proposalp1025coderev5755.aspx>

# 1 Introduction

## 1.1 The Applicant

The Applicant is DB Breweries Limited – Auckland, New Zealand.

## 1.2 The Application

This Application sought permission to use citric acid and lactic acid as food additives (acidity regulators) in beer through an amendment to food category 14.2.1 Beer and related products, in Schedule 1 of Standard 1.3.1 – Food Additives:

- INS 330 Citric Acid at GMP (Good Manufacturing Practice)
- INS 270 Lactic acid at GMP

This category may include a range of beer products such as stout, light beer, lager, ale, Pilsner and draught beer.

The addition of citric and lactic acids enables a reduction in the pH for lower strength and flavoured beers. These types of beers can require acidity adjustment to improve their flavour profile. Detail is provided in the food technology section of the Risk and Technical Assessment report (SD1).

The Applicant noted that both lower strength and flavoured beer styles are within the scope of the definition of beer in Standard 2.7.2 – Beer. However, no amendments were requested to Standard 2.7.2.

The proposed permission aimed to facilitate the production and importation of lower strength and flavoured beer styles in Australia and New Zealand. The Applicant noted that the permission would provide consistency with the permissions and labelling requirements for citric and lactic acid in beer of international trading partners (see 2.2 below).

## 1.3 The existing Standard

Standard 1.3.1 regulates the use of food additives in the production and processing of food. A food additive may only be added to food if it is expressly permitted in Standard 1.3.1. Additives can only be added to food in order to achieve an identified technological function according to GMP and to a maximum permitted level if specified in the Standard.

Schedule 1 of Standard 1.3.1 lists the permitted use of food additives in specified food types. Currently citric acid and lactic acid are not listed in Schedule 1 under food category 14.2.1 for use in beer and related products.

Standard 2.7.2 defines the term ‘beer’ and permits the addition of specified foods during its manufacture.

### 1.3.1. Transitional arrangements

FSANZ has approved a revision of the *Australia New Zealand Food Standards Code* (the revised Code).<sup>3</sup> The revised Code will replace the existing Code on 1 March 2016, when the existing Code will be repealed.

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<sup>3</sup> <http://www.foodstandards.gov.au/code/proposals/Pages/proposalp1025coderev5755.aspx>

Standard 1.3.1 of the existing Code is replicated in the revised Code. In particular, Schedule 1 in Standard 1.3.1 of the existing Code is replicated in the table to section S15—5 of Schedule 15 in the revised Code.

## 1.4 Reasons for accepting the Application

The Application was accepted for assessment because:

- it complied with the procedural requirements under subsection 22(2) of the FSANZ Act
- it related to a matter that might be developed as a food regulatory measure.

Currently citric acid and lactic acid are not listed in Schedule 1 under food category 14.2.1 for use in beer and related products. This affects the production and importation of lower strength and flavoured beer styles in Australia and New Zealand. Therefore, the Application warranted assessment and consideration of a variation to a food regulatory measure.

## 1.5 Procedure for assessment

The Application was assessed under the General Procedure.

## 1.6 International Standards and Regulations

Codex Alimentarius permits the addition of citric acid and lactic acid to beer under GMP conditions in the General Standard on Food Additives (Table 3) as follows:

Beer and malt beverages (14.2.1):

- 330 Citric Acid  
(<http://www.codexalimentarius.net/gsfaonline/additives/details.html?id=173>)
- 270 Lactic acid, L-, D- and DL-  
(<http://www.codexalimentarius.net/gsfaonline/additives/details.html?id=169>)

Citric and lactic acids are also permitted to be added to beers and various related products (at GMP) in the food regulations of the following countries:

- European Union: E270 lactic acid and E330 citric acid are permitted additives for beer and malt beverages under Regulation (EC) 1333/08.
- USA: The US Code of Federal Regulations Chapter 21, Title 3, affirms the GRAS (Generally Recognized as Safe) status of citric acid and lactic acids and approves their use in all foods on a GMP basis. There is no limitation on the use of such products specified in the beer standard (27 CFR Part 25).
- Canada: Canada's Food and Drug Regulations (C.R.C., c. 870) at B.02.130 (S) Beer, permit pH adjusting and water correcting agents in the production of beer. Health Canada permits both citric and lactic acid as pH adjusting agents.

These overseas standards do not contain a food category specifically for 'beer and related products' as in the Code. However, both Codex and EU permit citric and lactic acid in beer and 'malt beverages' and Canadian regulations specifically permit citric and lactic acid as pH adjusting agents in ale, stout, porter or malt liquor under B.02.132 [S] (C.R.C., c. 870), as well as in beer.

## 2 Summary of the findings

FSANZ undertook a risk assessment, reviewed international regulations and called for submissions on the potential amendments to the Code.

### 2.1 Summary of issues raised in submissions

Five submissions were received in response to the call for submissions in January 2015. All submitters supported amending the Code to permit the addition of citric and lactic acid to beer, as requested by the Applicant.

**Table 1: Summary of issues**

Issue	Raised by	FSANZ response
<p><b>The nature of the alcohol beverage market is changing i.e. there is now a wide choice of products in Australia, New Zealand and international markets; innovation has become essential. Increasing acidity will help improve lower alcohol beers, to meet consumer needs.</b></p> <p><b>Such acids are permitted in a number of other jurisdictions, including the USA, Canada and Europe.</b></p>	Brewers Association of Australia and New Zealand	Comment noted. FSANZ is approving amendments to the Code to permit the addition of citric and lactic acids to beer and related products which will enable innovation, support trade and expand consumer choice.
<p><b>Citric acid and lactic acid are used in beers overseas – permissions in the Code would allow for importation of a greater variety of beer.</b></p>	Food Technology Association of Australia	Approving amendments to the Code to align with overseas permissions will support importation.
<p><b>The use of these acids is technologically justified, particularly when making flavoured beers.</b></p> <p><b>Satisfied that no public health or safety concerns.</b></p>	NZ Ministry for Primary Industries	Approving amendments to the Code presents no public health and safety issues and is technologically justified.
<p><b>Permission would encourage innovation and increase consumers choice and sensible consumption. Would be consistent as both acids are permitted in other alcoholic beverages in the Code, and in beers and related food categories in USA, Canada and Europe, and in the Codex General Standard for Food Additives.</b></p>	NZ Food & Grocery Council	Approving amendments to the Code will align with overseas permissions, enable innovation and increase consumer choice.
<p><b>Both citric and lactic acids are currently permitted as food additives in a number of foods (i.e. there is inconsistency).</b></p>	Victorian Departments of Health and Human Services and Economic Development, Jobs, Transport and Resources	The approved amendments will provide consistency within the Code and with overseas regulations.

### 2.2 Risk assessment conclusion

FSANZ's risk assessment is at SD1. In summary, citric acid and lactic acid are substances of very low toxicity. Citric acid occurs in many foods, with levels of approximately 10–50 g/L in orange juice and lemon juice. Lactic acid levels are highest in foods produced by fermentation, with levels of approximately 10 g/kg reported for cheese and yoghurt.

Both citric and lactic acid are currently permitted as food additives in a large range of foods at levels consistent with GMP.

The Joint FAO/WHO Expert Committee on Food Additives (JECFA) concluded that establishing an Acceptable Daily Intake (ADI) expressed in numerical terms was unnecessary for either substance.

The food technology assessment concluded that certain types of beers exhibit improved flavour profiles due to pH reduction achieved by the addition of citric and lactic acids. Maximum levels of addition are expected to be approximately 3 g per litre of beer (total of citric acid plus lactic acid).

FSANZ concluded that the use of citric and lactic acids as food additives in beer and related products is technologically justified and presents no public health and safety issues. Also, FSANZ was unable to locate reliable data indicating any sensitivity or intolerance reactions attributable to citric or lactic acid at concentrations typically found in foods. Therefore, no change was made to SD1 following the call for submissions.

## **3 Risk management**

### **3.1 Levels of addition**

Additives are permitted in the Code with maximum permitted levels in some cases, or for use under GMP.

Citric and lactic acids are currently permitted as food additives in a large range of foods at levels consistent with GMP. The Application requested GMP permission for the proposed use of citric and lactic acids in beer and related products, and no specific level was requested.

As the risk assessment concluded that the addition of citric and lactic acids to beer is not expected to pose a risk to public health and safety, setting specific maximum levels in the Code was not considered necessary. Therefore, citric and lactic acid would be added to beer and related products according to GMP.

### **3.2 Labelling**

Existing generic and specific labelling requirements in the Code apply to beer and related products e.g. the name of the food (Standard 1.2.2 – Food Identification Requirements) and the declaration of the alcohol content and number of standard drinks (Standard 2.7.1 – Labelling of Alcoholic Beverages and Food containing Alcohol).

However, beer that is standardised in Standard 2.7.2 is exempt from ingredient labelling under Standard 1.2.4 – Labelling of Ingredients. This exemption includes the requirement to declare food additives.

Based on the risk assessment conclusion, FSANZ considers that current labelling provisions are appropriate for standardised beer with citric and lactic acid added. Citric acid and lactic acid would not be required to be declared on the label of standardised beer.

This is the case with any other food additive permitted to be added to beer standardised under Standard 2.7.2 (except in the case of an allergen requiring declaration under Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations, or that requires declaration in accordance with Standard 1.5.2 – Food produced using Gene Technology).

### 3.3 Cost-benefit analysis

The benefits and costs associated with the proposed amendments to Standard 1.3.1 of the existing Code and Schedule 15 of the revised Code have been considered based on regulatory impact principles. The level of analysis is commensurate to the nature of the Application and significance of the impacts.

The Office of Best Practice Regulation, in a letter dated 24 November 2010 (reference 12065), provided a standing exemption from the need to determine whether a Regulation Impact Statement is required for applications relating to food additives, as they are machinery in nature and their use is voluntary. However, FSANZ undertook a limited qualitative impact analysis.

Two regulatory options were considered i.e.:

- (1) approve the draft variations to Standard 1.3.1 of the existing Code and Schedule 15 of the revised Code, to permit the addition of citric and lactic acids as food additives, to beer and related products; and
- (2) reject the draft variations.

The likely impacts of these options were considered but this was not intended to be an exhaustive, quantitative economic analysis. Rather, the qualitative effects of each option were considered and deliberately limited to broad areas such as trade and consumer choice.

#### **Option 1 – approve the draft variations to Standard 1.3.1 of the existing Code and Schedule 15 of the revised Code, to permit the addition of citric and lactic acids as food additives to beer and related products**

Sector	Costs or benefits
Consumers	Consumer choice would increase as a greater variety of beers or related products would be available, specifically lower strength and flavoured beers, with improved taste. This may include international beers imported into Australia and New Zealand. While these beers may cost more to a consumer, standard beers will continue to be available, providing choice.
Industry	The brewing industry would have the opportunity to develop and market a wider variety of beer types or related products. Importers would be able to sell imported beers that use citric and lactic acid. Retailers, including supermarkets, could stock a greater variety of beers.
Governments	There are not likely to be any specific costs as a result of this option. It is possible that greater availability of new lower alcohol beers may support the public policy objective of reducing harm from alcohol.

#### **Option 2 – Reject the draft variations**

Sector	Costs or benefits
Consumers	This option does not provide a benefit for consumers. This option would limit the availability of new, innovative beers or related products which would limit consumers' choice of lower alcohol and flavoured beers.
Industry	There would be an opportunity cost for beer producers, importers and retailers. Companies are less likely to develop innovative products. Also, this option would limit importing these types of innovative beer products. Re-labelling or re-branding of beer products may not be commercially viable or attractive.
Governments	There would be no direct impacts on Government agencies.



FSANZ considered that Option 1 was the preferred option and therefore approved the draft variations to the existing and revised Codes. Beer producers and retailers will be able to produce and market new lower alcohol and flavoured beers; if so, consumers' choice will expand; harmonisation will benefit trade; and there should not be costs to governments.

Option 2 would not provide these benefits.

The benefits resulting from approving the draft variations outweigh the costs to the community, industry or Government agencies.

### **3.4 Decision**

The draft variation to Standard 1.3.1 of the existing Code, as proposed following assessment, was approved without change following consideration of submissions. As a consequence, a draft variation to Schedule 15 of the revised Code was also approved.

The approved draft variation to Standard 1.3.1 of the existing Code takes effect on gazettal. The approved draft variation to Schedule 15 of the revised Code takes effect on 1 March 2016, which is the date on which the revised Code comes into effect.

The approved draft variations and explanatory statements are at Attachments A and B. An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislative Instruments.

## **4 Risk communication**

FSANZ applied a basic communication strategy for this Application. All calls for submissions were notified via the FSANZ Notification Circular, media release, FSANZ's social media tools and Food Standards News. The Applicant, individuals and organisations that made submissions on this Application were notified at each stage of the assessment. Subscribers and interested parties were also notified via email about the availability of reports for public comment.

### **4.1 Consultation**

Consultation is a key part of FSANZ's standards development process. After assessing the Application, public submissions were called for from 16 January to 27 February 2015, to obtain the views of interested parties on the impacts of the regulatory options. Five submissions were received; three from the food industry and two from Government agencies. All submitters supported the Application.

Every submission on an application or proposal is considered by FSANZ (see Table 1). FSANZ acknowledges the time taken by submitters as all comments contribute to the rigour of our assessment.

FSANZ's decision to approve the draft variations has been notified to the Australia and New Zealand Ministerial Forum on Food Regulation<sup>4</sup> (Forum). If the decision is not subject to a request for a review, the Applicant and stakeholders including the public will be notified of the gazettal of the variations to the Code in the national press and on the FSANZ website.

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<sup>4</sup> convening as the Australia and New Zealand Food Regulation Ministerial Council

## **5 FSA NZ Act assessment requirements**

### **5.1 Section 29**

When assessing this Application and the subsequent development of a food regulatory measure, FSA NZ must have regard to the following matters in section 29 of the FSA NZ Act:

#### **5.1.1 Cost benefit analysis**

#### **5.1.2 Other measures**

FSA NZ is not aware of any other measures (whether available to FSA NZ or not) that would be more cost-effective than the draft variations to the existing and revised Codes, as a result of the Application.

#### **5.1.3 Any relevant New Zealand standards**

Standards 1.3.1 of the existing Code and Schedule 15 of the revised Code apply to both Australia and New Zealand.

#### **5.1.4 Any other relevant matters**

Other relevant matters are considered below.

### **5.2. Subsection 18(1)**

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

#### **5.2.1 Protection of public health and safety**

Citric acid and lactic acid are currently permitted as food additives in certain food categories in Standard 1.3.1 of the existing Code and Schedule 15 of the revised Code under GMP conditions. FSA NZ undertook a safety assessment (see section 2.1 above) and concluded that there are no public health and safety concerns from extending their use to the production of beer and related products.

#### **5.2.2 The provision of adequate information relating to food to enable consumers to make informed choices**

Existing labelling requirements will apply for beer and related products, and will provide information for consumers i.e. the name of the food, the alcohol content and the number of standard drinks. Section 3.2 above provides further details.

#### **5.2.3 The prevention of misleading or deceptive conduct**

FSA NZ did not identify any relevant issues relating to the prevention of misleading or deceptive conduct for this Application.

### **5.3 Subsection 18(2) considerations**

FSA NZ has also had regard to:

- **the need for standards to be based on risk analysis using the best available scientific evidence**

This Application was assessed using the best available scientific evidence. The Applicant submitted a dossier of scientific studies in support of the Application. Other resource material including published scientific literature and general technical information was also used to assess this Application.

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

The amendments (food additive permissions) make the Australian and New Zealand regulations for production of beer and related products consistent with food standards in other countries (see section 2.2).

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

The variations to the existing and revised Codes are expected to have a positive effect on the local beer industry as it will allow the development of innovative lower alcohol and flavoured beers, and related products. Such products will also meet international requirements and so could compete on their own merits.

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

The food additive permissions will facilitate the production, importation and sale of lower strength and flavoured beer styles in Australia and New Zealand, which will support fair trading for manufacturers and retailers.

- **any written policy guidelines formulated by the Ministerial Council<sup>5</sup>**

The Policy Guideline 'Addition to Food of Substances other than Vitamins and Minerals'<sup>6</sup> includes specific order policy principles for substances added to achieve a solely technological function, such as food additives. These specific order policy principles state that permission should be granted where:

- the purpose for adding the substance can be articulated clearly by the manufacturer as achieving a solely technological function (i.e. the 'stated purpose')
- the addition of the substance to food is safe for human consumption
- the amounts added are consistent with achieving the technological function
- the substance is added in a quantity and a form which is consistent with delivering the stated purpose
- no nutrition, health or related claims are to be made in regard to the substance.

FSANZ determined that permitting citric and lactic acids as food additives for use in beer production, is consistent with these specific order policy principles.

## **Attachments**

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

<sup>5</sup> Now known as the Australia and New Zealand Ministerial Forum on Food Regulation (convening as the Australia and New Zealand Food Regulation Ministerial Council)

<sup>6</sup> <http://www.foodstandards.gov.au/code/fofr/fofrpolicy/pages/default.aspx>

## Attachment A – Approved draft variation to the existing *Australia New Zealand Food Standards Code*



### Food Standards (Application A1103 – Citric & Lactic Acids as Food Additives in Beer) Variation

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The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on the date specified in clause 3 of this variation.

Dated [To be completed by Standards Management Officer]

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

**Note:**

This variation will be published in the Commonwealth of Australia Gazette No. FSC **XX on XX Month 20XX**. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

**1 Name**

This instrument is the *Food Standards (Application A1103 – Citric & Lactic Acids as Food Additives in Beer) Variation*.

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

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

**3 Commencement**

The variation commences on the date of gazettal.

**SCHEDULE**

**[1] Standard 1.3.1** is varied by inserting under item 14.2.1 Beer and related products in Schedule 1 each of the following in numerical order

“

270	Lactic acid	GMP
330	Citric acid	GMP

”

## **Explanatory Statement**

### **1. Authority**

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 1 of Part 3 of the FSANZ Act specifies that the Authority may accept applications for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering an application for the development or variation of food regulatory measures.

The Authority accepted Application A1103 which sought to amend Standard 1.3.1 of the existing Code to allow the use of citric and lactic acid as food additives (acidity regulators) in beer and related products under Schedule 1 (food category 14.2.1).

The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a variation to Standard 1.3.1.

Following consideration by the Australia and New Zealand Ministerial Forum on Food Regulation<sup>7</sup>, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the draft variation.

Section 94 of the FSANZ Act specifies that a variation of a standard, in relation to which a notice is published under section 92 is a legislative instrument, but is not subject to parliamentary disallowance or sunseting under the *Legislative Instruments Act 2003*.

### **2. Purpose**

The Authority has approved a draft variation to Standard 1.3.1 of the existing Code, which would allow the use of citric and lactic acid as food additives (acidity regulators) in beer and related products.

### **3. Documents incorporated by reference**

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

### **4. Consultation**

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1103 included one round of public consultation following an assessment and the preparation of a draft variation and associated report.

A Regulation Impact Statement (RIS) was not required because the proposed variation to Standard 1.3.1 of the existing Code will have a minor impact on business and individuals. The Office of Best Practice Regulation has exempted the need for a RIS for applications relating to food additives, as they are machinery in nature and their use is voluntary.

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<sup>7</sup> convening as the Australia and New Zealand Food Regulation Ministerial Council

## **5. Statement of compatibility with human rights**

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 94 of the FSANZ Act.

## **6. Variation**

Item 1 of the Schedule to the draft variation amends Standard 1.3.1 of the existing Code by inserting, in numerical order, two new entries into item 14.2.1 Beer and related products in Schedule 1 of the Standard.

These new entries are Lactic acid (INS number 270) and Citric acid (INS number 330), each of which would be permitted to be added to beer and related products at levels consistent with GMP.

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



### ***Australia New Zealand Food Standards Code* – Transitional Variation 2015 (Application A1103 – Citric & Lactic Acids as Food Additives in Beer)**

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The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on the date specified in clause 2 of the variation.

Dated [To be completed by Standards Management Officer]

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

**Note:**

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



**1 Name of instrument**

This instrument is the *Australia New Zealand Food Standards Code — Transitional Variation 2015 (Application A1103 – Citric & Lactic Acids as Food Additives in Beer)*.

**2 Commencement**

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

**3 Variation of Schedule 15**

The Schedule varies Schedule 15 of the *Australia New Zealand Food Standards Code* – Substances that may be used as food additives.

**SCHEDULE**

**[1] Schedule 15** is varied by inserting in numerical order under item 14.2.1 Beer and related products in the table to section S15—5

“

270	Lactic acid	GMP
330	Citric acid	GMP

”

## Explanatory Statement

### 1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

FSANZ completed a review of the Code undertaken under Proposal P1025<sup>8</sup> in order to improve the Code's clarity and legal efficacy. A revised Code has been approved and will commence on 1 March 2016. It will replace the existing Code, which will be repealed on that date.

Division 1 of Part 3 of the FSANZ Act specifies that the Authority may accept applications for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering an application for the development or variation of food regulatory measures.

The Authority accepted Application A1103 which sought to amend Standard 1.3.1 of the existing Code to allow the use of citric and lactic acid as food additives (acidity regulators) in beer and related products under Schedule 1 (food category 14.2.1).

The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a draft variation to Standard 1.3.1 of the existing Code. The Authority has subsequently approved a draft variation to Schedule 15 of the revised Code to ensure that, on 1 March 2016, the revised Code is consistent with the existing Code as amended by the draft variation.

Following consideration by the Australia and New Zealand Ministerial Forum on Food Regulation<sup>9</sup>, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the draft variation.

Section 94 of the FSANZ Act specifies that a variation of a standard, in relation to which a notice is published under section 92 is a legislative instrument, but is not subject to parliamentary disallowance or sunseting under the *Legislative Instruments Act 2003*.

### 2. Commencement

The approved variation to the revised Code takes effect on 1 March 2016.

### 3. Purpose

The Authority has approved amendments to Schedule 15 of the revised Code – Substances that may be used as food additives, to allow the use of citric and lactic acid as food additives (acidity regulators) in beer and related products.

### 4. Documents incorporated by reference

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

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<sup>8</sup> <http://www.foodstandards.gov.au/code/proposals/Pages/proposalp1025coderev5755.aspx>

<sup>9</sup> convening as the Australia and New Zealand Food Regulation Ministerial Council

## **5. Consultation**

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1103 includes one round of public consultation following an assessment and the preparation of a draft variation and associated report.

A Regulation Impact Statement was not required because the proposed amendments to Schedule 15 are likely to have a minor impact on business and individuals. The Office of Best Practice Regulation has exempted the need for a RIS for applications relating to food additives, as they are machinery in nature and their use is voluntary.

## **5. Statement of compatibility with human rights**

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 94 of the FSANZ Act.

## **6. Variation**

Item 1 of the Schedule to the Variation amends the table to section S15—5 of Schedule 15 of the revised Code by inserting, in numerical order, two new entries into item 14.2.1 Beer and related products.

These new entries are Lactic acid (INS number 270) and Citric acid (INS number 330), each of which would be permitted to be added to beer and related products at levels consistent with GMP.