



NEW ZEALAND JUICE & BEVERAGE ASSOCIATION

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24th September 2013

Food Standards Australia New Zealand
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Submission for Proposal P1025 Code Revision 2013

The New Zealand Juice and Beverage Association (NZJBA) is the industry association representing the interests of manufacturers, their franchisers and suppliers, of juice based beverages, carbonated/non-carbonated drinks and bottled water in New Zealand. Production by NZJBA bottler members equates to over 95% of all water and juice based beverages sold in New Zealand as well as products exported internationally.

A list of NZJBA members are attached as Appendix 2.

The NZJBA value the opportunity to review and comment on P1025 Code Revision 2013.

The Proposal aims to modernise the presentation of the Code to better meet the needs of a broad range of stakeholders in industry, commerce and enforcement.

- presenting the Code as a single, unified instrument
- clearer presentation of requirements that impose an obligation in relation to the conduct of a food business or the sale of food, or relating to the composition of food or labeling.
- a greater reliance on definitions already present in the food acts of New Zealand and the states and the territories.

The NZJBA is a very interested party in the development of the proposed code revision P1025; with the NZJBA TAG team spending at least 400 hours of both voluntary and work time reviewing of this proposal.

The NZJBA will support a legislative framework that will allow:

1. Food safety assurance
2. Continued manufacture and distribution of products formulated to existing standard
3. Innovation within the food industry
4. Support of worldwide trends
5. Meeting consumer demands

The main concerns expressed by beverage manufacturers are summarized below and full comments are included in Appendix 1.

SPECIFIC CONCERNS

The NZJBA seeks clarification from FSANZ, where there has been identified any significant issues or unintended changes from P1025, and request that this will be remedied by FSANZ.

The NZJBA TAG (Technical Advisory Group) has prioritized our concerns into:

- A. NZJBA biggest issue,
- B. Unintended drafting changes,
- C. Changes that have either significant confusion or ambiguity.
- D. Additional comments are available in Appendix 1.

A. NZJBA biggest issue

The continuing lack of clarity around additive permissions for fruit & vegetable beverages. There is poor understanding in the food industry of how the qualification side bar, which allows additives in reconstituted juices, works to actually allow additive permissions, Std 1.3.1, 14.1.2.1. It is essential that there is greater clarity around this.

<u>Current FSANZ Code number</u>	<u>Area for review</u>	<u>New Number in the draft FSANZ code</u>	<u>Unintended Changes to Regulation</u>
1.3.1	Schedule 1 -14.1	Volume 2, page131-134 Sch 15	Note: For juice separated by other than mechanical means. Clarification required ambiguity around this statement. If purpose of code was to improve legal clarity then this does not meet it. Reconstituted juice currently has most additives permitted via the sidebar comment. This remains the case; however, the sidebar remains confusing and is open to multiple interpretations.

B. Unintended Changes due to drafting

<u>Current FSANZ Code number</u>	<u>Area for review</u>	<u>New Number in the draft FSANZ code</u>	<u>Unintended Changes to Regulation</u>
1.3.2	Vitamins & Minerals	Volume 2, S1.01 & S1.02 Volume 1, page 86, 1.128	Vol 2, page 7 S1.01 - Niacin has changed from 10 mg to 1.1mg, Vitamin D has increased from 5mg to 10mg, added infant column. Vol 1, page 86 1.128 should read as no more than the maximum permitted quantity
1.5.2	Foods produced from Gene Technology	Volume 1, page 99-101, Division 9 Volume 2, page 308-310, S26.01, S26.02	Previously up to 1% accidental additions. GM had to be labelled. Appears to have loosened up.

		pg 28 draft explanatory statement Volume 1, Chapter 1, page 100	
2.6.2	Non – Alcoholic Beverages and Brewed Soft Drinks	Volume 1, Part 6, Division 2, page 137 Volume 2, (2.44-2.54) Sch 28	Page 315, S28.01 - Table requires superscript of ‘ ⁻ ’ (negative) for CN, F, NO3, NO2.
2.9.4	Formulated Supplementary Sports Foods	Volume 1, Division 4, pages 178 - 180 Volume 2, pages 336-341, S30.15, S30.16, S30.17, S30.18	Vol 2, page 338, S30.16 - Biotin level changed from 100 to 30mg, Pantothenic acid level changed from 7 to 5mg. Phosphoric acid repeated (i.e. in both S30.16 and in S17.02)

C. Confusing Changes

<u>Current FSANZ Code number</u>	<u>Area for review</u>	<u>New Number in the draft FSANZ code</u>	<u>Changes to Regulation</u>
1.2.8	Nutrition Information Requirements	Volume 1, Chapter 1, Part 3, Division 8, page 67 Volume 2, pages 91-100, S11 & S12	Formula moved to Schedule 11 pg 91 but the intent of the original definition needs to be added back i.e. "energy factor means the energy of the food component expressed in kilojoules per gram of food component, rounded to the nearest whole number."
1.3.1	All including Schedules	Volume 1, Part 2, Division 1, pg 19, 20 Page 82 - definition of food additive	When carrot juice is used as a colour, it would still be defined as a food. If it was further refined then would it become a food additive. Impact: is it an approved food additive? - magnifies the ambiguity. If becomes an additive then it would be required to meet the identity and purity standard (which it would not currently meet until it was taken back to a carotenoid)
	Schedule 4	Volume 2, pages 150, S16.03	No statement of permitted level maximum level. Previously was 70mg/L for beverages. Now in Vol 1, page 83, 1.224(3)
1.3.3	Processing Aids	Volume 1, Div 2, 1.131 Volume 2, page 166-189, S18	Change in terminology from final food to processed food implication is that a processed food may not necessarily be a final food. Final food vs. processed and no definition for processed food. Ambiguity.

2.6.2	Non – Alcoholic Beverages and Brewed Soft Drinks	Volume 1, Part 6, Division 2, page 137 Volume 2 (2.44-2.54) S28	Page 137 2.45, Composition of packaged water no longer contains carbon dioxide statement. Vol 2 page 131 S15.1.2 to S28 to S8 - One simple sentence, now required to visit four places to follow the trail for carbon dioxide addition.
	Electrolyte drinks	Volume 1, Section 1.33u, 2.51 & 2.53 page 140	Page 140 - 2.53 (2) – Question if must have milliOsmol/L value on all electrolyte drinks. The changes have added element of ambiguity from an interpretation perspective, clearer in previous regulations.
2.6.4	Formulated Caffeinated Beverages	Volume 1, Division 4 pages 143-144	2.59 - Schedule 29 - Spelling of thiamin has changed to thiamine - TYPO change would be required to Thiamin to be consistent with S17 page 151.

CONCLUSION

NZJBA TAG team (excluding NZJBA members) have spent at least 400 hours of both work and voluntary time reviewing of this proposal.

The NZJBA would encourage FSANZ to review the points that have been raised and give due consideration to a review to ensure legislative framework that will allow:

- ⇒ Ensures food safety
- ⇒ Continued manufacture and distribution of products formulated to existing standard
- ⇒ Innovation within the food industry
- ⇒ Supports worldwide trends
- ⇒ Meets consumer demands

Should any further information or data be required, please do not hesitate to contact the undersigned.

We look forward to receiving feedback to our submission.

Kind Regards



Executive Director
New Zealand Juice & Beverage Association Inc

APPENDIX 1: NZJBA FSANZ Code Review

<u>Current FSANZ Code number</u>	<u>Area for review</u>	<u>New Number in the draft FSANZ code</u>	<u>Changes to Regulation</u>
1.2.4	Labelling of Ingredients	Volume 1 Chapter1, Part 3, Division 9 , pages 76-78 1.112(4)May be 1.115(3) Must be 1.116(6)May be	Comment opportunity for ambiguity but consistent with the current regulations page 77 Open for interpretation due to 'must', would require either must or maybe - indicates that it is a guideline. However is consistent with current regulation. Leave as is.
1.2.7	Nutrition, Health & Related Claims	Division 7 Vol 2, page 27-75 S4.01-S6.01	Changes to some definitions and editorial notes shifted. No change to schedules (now relocated in Vol.2 with all other Schedules Italics on page 56 Vol 1 - if had 5% fruit juice in fruit drink this would mean that %RDI would not meet the 10% nutrient claim requirement page 56 - addition of new statements Comment on new area - use vitamin c as an example
1.2.8	Nutrition Information Requirements	Volume 1, Chapter 1, Part 3, Division 8, page 67 Vol 2, pages 91-100, S11 & S12	Location of some information has moved. Definitions of fat etc. (Volume 1, Chapter 1, Part 3, Division 7, Subdivision B) calculations & energy factors (schedule 11) example NIP layout - including more than previously = %DI, FCB's (schedule 12) Pages 94-99 - S12 NIP's. Prescribed tables do not include word 'average quantity' as per wording in Vol 1, Division 8, 1.101 (1)(d)(i)(ii). Only example in S12.06 - similar to current standard Formula moved to Schedule 11 pg 91 but the intent of the original definition needs to be added back i.e. "energy factor means the energy of the food component expressed in kilojoules per gram of food component rounded to the nearest whole number."
1.2.10	Characterising Ingredients and components of food	Vol 1, pages 75-79, Division 9, 1.110-1.116	Intent stayed the same, wording/terminology changed. May & must as per 1.2.4

1.3.1	All including Schedules	Volume 1, Part 2, Division 1, pg 19, 20 Page 82 - definition of food additive	Definitions around food, additive, processing aid better defined. Goes back to better intent. Watch for colouring food stuffs, watch e.g. Colour that has been purified and some flavours. Flavour/Sweetness enhancer is still okay Volume 2, S16 Flavours - reference list updated to 2011 and moved to Europe list When carrot juice is used as a colour, it would still be defined as a food. If it was further refined then would it become a food additive - impact: is it an approved food additive? - magnifies the ambiguity/hole. If becomes an additive then would be required to meet identity and purity standard (which it would not currently meet until it was taken back to a carotenoid) page 82- heading colour and their calcium lakes has changed from Colours and their aluminium and calcium lakes - covered in word following.
	<ul style="list-style-type: none"> Schedule 1 -14.1 	Volume 2, page131-134 Sch 15 Vol 2, page 104, 15.04(1.3) - Flavourings	<p>Note: For juice separated by other than mechanical means. Clarification required ambiguity around this statement. If purpose of code was to improve legal clarity then this does not meet it.</p> <p>Reconstituted juice currently has most additives permitted via the sidebar comment. This remains the case, and it remains confusing and open to multiple interpretations.</p>
	<ul style="list-style-type: none"> Schedule 2 	Vol 2, pages 141-147, S16.01	No change
	<ul style="list-style-type: none"> Schedule 3 	Vol 2, pages 148-149, S16.02	No change
	<ul style="list-style-type: none"> Schedule 4 	Volume 2, pages 150, Sch 16.03	No statement of permitted level maximum level. Previously was 70mg/L for beverages. Now in Vol 1, page 83, 1.224(3)
1.3.2	Vitamins & Minerals	Volume 2 Sch 1.01 & S1.02 Volume 2, page 151-152 Sch 17.01 Volume 2, page 153-155 Sch 17.02 Volume 2, page 160-161 Sch 17.03 1.130	<p>Vol 2, page 7 S1.01 - Niacin has changed from 10 mg to 1.1mg, Vitamin D has increased from 5µg to 10µg, added infant column</p> <p>Vol 1, page 86 1.128 should read as no more than the maximum permitted quantity</p> <p>Addition of Permitted forms of vitamins (S17.01) and minerals (S17.02)</p> <p>No change to 17.03(5)5.1-5.5 - OK</p>

1.3.3	Processing Aids	Vol 1, Div 2, 1.131 Vol 2, page 166-189, S18	Concept has changed to make a distinction between a substance that is used as a processing aid and a food that is used as a processing aid. Change in terminology from final food to processed food implication is that a processed food may not necessarily be a final food. Final food vs. processed and no definition for processed food. Ambiguity.
1.3.4	Identity & Purity	Volume 1, Chapter 1, Part 2, Division 2, Section 1.25, pg 28 Attachment 2, Schedule 3 page 12	Addition of Permitted forms of vitamins (S17.01) and minerals (S17.02) No change to 17.03(5)5.1-5.5 Meeting of the identity and purity - attachment 2, page 12 schedule 3. More expansive than JEFCA- have listed both for 163 "anthocyanins". Raise why specified 2 and kept the "anthocyanins"
1.5.1	Novel Foods	Vol 1, pages 97-98, Division 8 refers to Vol 1, page 25, 1.2.1(3) Vol 2, pages 306-307, S25.01	Refers to Vol 1, page 25, 1.2.1(3) page 307 S25.01 Tall oil phytosterol section. Incorrect spelling of relate - written as 'relatr' Removed statement from current 1.5.1(4) regarding period of exclusive time
1.5.2	Foods produced from Gene Technology	Vol 1, page 99-101, Division 9 Vol 2, page 308-310, S26.01, S26.02 pg 28 draft explanatory statement Volume 1, Chapter 1, page 100	Previous up to 1% accidental additions. GM had to be labelled. Appears to have loosened up. Flavours can now have gene technology without declaration.
2.6.1	Fruit Juice & Vegetable Juice	Volume 1, Part 6, Division 1, page 135 Volume 2, S15.2.1	
2.6.2	Non – Alcoholic Beverages and Brewed Soft Drinks	Volume 1, Part 6, Division 2, page 137 Volume 2 (2.44-2.54) Sch 28	Page 315 S28.01 - common on table requires superscript of -ve for CN, F, NO3, NO2. Page 137 2.45, Composition of packaged water no longer contains carbon dioxide statement. Vol 2 page 131 S15.1.2 to S28 to S8 - One simple sentence now have need to visit 4 places to follow the trail. Page 139 2.49 Fruit drinks definition has been clarified

	Electrolyte drinks	Section 1.33u, 2.51 & 2.53 page 140	<p>Page 140 - 2.53 (2) - TAG believes only required as per current std, Question if must have milliOsmol/L value on all electrolyte drinks. The changes have added element of ambiguity from an interpretation perspective, clearer in previous regulations.</p> <p>Check if from legal perspective if headings no legal relevance then this statement would hold. CONFUSING</p>
2.6.4	Formulated Caffeinated Beverages	Volume 1, Division 4 pages 143-144	<p>2.58 - changed from 'non-alcoholic water based flavoured beverage...' to 'flavoured non-alcoholic beverage....' - removal of water based. What additives are now permitted Vol 2, page 131, 15.3; Water based flavoured drinks, 15.3.1 Electrolyte drink and electrolyte drink base. - OK as definition of non-alcoholic beverage is water based flavoured drinks and electrolyte drinks. Reworded 2.58(2) - no impact on intent</p> <p>2.59 - Schedule 29 - Spelling of thiamin has changed to thiamine - TYPO change would be required to Thiamin to be consistent with S17 page 151.</p>
2.9.4	Formulated Supplementary Sports Foods	Vol 1, Division 4, pages 178 - 180	<p>Under CFS - Page 14, 3.2.17 states 'Standard 2.9.4 is to be reviewed'</p> <p>Checking and cross referencing std against schedules as currently listed of permitted forms and intake amounts are now split into schedules 17.01 p151 (Vits & Mins) and S30.16 Additional permitted forms and intake amounts S30.15-S30.18</p> <p>Page 179, 2.130(2)(b)(ii) - now states unit quantity previously per 100ml or g</p> <p>Page 181-182, uses word 'average' in front of words energy content</p> <p>Vol 2, page 336 S30.15 - ok</p> <p>Vol2, page 338, S30.16 - Biotin level changed from 100 to 30mg, Pantothenic acid level changed from 7 to 5mg. Phosphoric acid repeated (i.e. in both S30.16 and in S17.02)</p> <p>Vol 2, page 340, S30.17 - addition of specific isomer L, more accurate terminology - ok</p>

APPENDIX 2: NZJBA Member List

BEVERAGE MEMBERS

[Barker's of Geraldine](#)
[Barwell Pacific Ltd](#)
[Beachview Products Ltd](#)
[Beaumont Organic Ltd](#)
[Coca-Cola Oceania Ltd](#)
[Coca-Cola Amatil NZ Ltd](#)
[Directus International Ltd](#)
[ENZAFOODS New Zealand Ltd](#)
Essentials Trading Ltd
[Frucor Beverages Ltd](#)
[Fruit Solutions Ltd](#)
[Fruit Squeeze Ltd](#)
[Glaxo SmithKline NZ](#)
[Greenways Orchards Ltd](#)
[International Flavors and Fragrances \(NZ\) Ltd](#)
[Ingredient Techniques NZ Ltd](#)
[James Crisp \(NZ\) Ltd](#)
Kerry Ingredients Ltd
[Kiwifruit Processing Co Ltd](#)
MMC Limited
Natural Sugars NZ Ltd
[Nekta Products Ltd](#)
[Phoenix Organics Ltd](#)
[Profruit \(2006\) Ltd](#)
[Relax NZ Ltd](#)
[RD2 International Ltd](#)
[Salkat New Zealand Ltd](#)
[Sensient Technologies](#)
[Simply Squeezed](#)
Steam Brewing Company
[The Better Drinks Co Ltd](#)
[Ti-Tonics Limited](#)
[Tradex Oceania Limited](#)
[Zebra Zoo Ltd](#)
[Zymus International Ltd](#)

WATER MEMBERS

[Alpha Aqua Ltd](#)
[Antipodes Water Company Ltd](#)
[Aguasplash Limited](#)
[Kauri Springs NZ Ltd](#)
[NZ Drinks Ltd](#)
[New Zealand Spring Water](#)
New Zealand Quality Waters Ltd
[Waiwera Water New Zealand Ltd](#)