

Food Standards (Proposal P1050 – Pregnancy warning labels on alcoholic beverages) Variation

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 variation commences on the date specified in clause 3 of this variation.

Dated 27 July 2020



Joanna Richards
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 135 on 31 July 2020. 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 (Proposal P1050 – Pregnancy warning labels on alcoholic beverages) Variation*.

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

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

3 Commencement

The variation commences on the date of gazettal.

4 Effect of the variations made by this instrument

- (1) Section 1.1.1—9 of Standard 1.1.1 does not apply to the variations made by this instrument.
- (2) During the transition period, a food product may be sold if the product complies with one of the following:
 - (a) the Code as in force without the variations made by this instrument; or
 - (b) the Code as amended by the variations made by this instrument.
- (3) A food product that was packaged and labelled before the end of the transition period may be sold after the transition period if the product complies with one of the following:
 - (a) the Code as in force without the variations made by this instrument; or
 - (b) the Code as amended by the variations made by this instrument.
- (4) For the purposes of this clause, the **transition period** means the period commencing on the variation's date of commencement and ending 36 months after the date of commencement.

Schedule

Standard 1.1.2

- [1] **Standard 1.1.2** is varied by inserting in subsection 1.1.2—2(3) in alphabetical order

individual unit means a container that:

- (a) is an innermost package; and
- (b) contains a beverage with more than 1.15% alcohol by volume.

pregnancy warning label means either the pregnancy warning pictogram or the pregnancy warning mark.

pregnancy warning mark means the following image comprising

- (a) the pregnancy warning pictogram,
 - (b) the signal words "Pregnancy Warning" and
 - (c) the statement "Alcohol can cause lifelong harm to your baby",
- all within a border.



pregnancy warning pictogram means the following pictogram with the silhouette of a pregnant woman holding a wine glass within a circle with a strikethrough:



prescribed alcoholic beverage means a beverage that

- (a) has more than 1.15% alcohol by volume; and
- (b) either:
 - (i) is for retail sale; or
 - (ii) is sold as suitable for retail sale without any further processing, packaging or labelling; and
- (c) does not include a beverage that:
 - (i) is sold for retail sale; and
 - (ii) is packaged in the presence of the purchaser.

Standard 1.2.1

[2] **Standard 1.2.1** is varied by

[2.1] omitting the Note to subsection 1.2.1—6(1), substituting

Note 1 See section 1.2.1—9 for information requirements for food for sale that does not need to bear a label.

Note 2 See Division 4 of Standard 2.7.1 for the requirements relating to a *pregnancy warning label.

[2.2] omitting the Note to subsection 1.2.1—6(2), substituting

Note 1 See also section 1.2.1—24

Note 2 See Division 4 of Standard 2.7.1 for the requirements relating to a *pregnancy warning label.

Standard 2.7.1

[3] **Standard 2.7.1** is varied by

[3.1] inserting after Note 2 to Standard 2.7.1

Division 1 Preliminary

[3.2] omitting the Note to section 2.7.1—2, substituting

Note In this Code (see section 1.1.2—2):

individual unit means a container that:

- (a) is an innermost package; and
- (b) contains a beverage with more than 1.15% alcohol by volume.

pregnancy warning label means either the pregnancy warning pictogram or the pregnancy warning mark.

pregnancy warning mark means the following image comprising

- (a) the pregnancy warning pictogram,
 - (b) the signal words “Pregnancy Warning” and
 - (c) the statement “Alcohol can cause lifelong harm to your baby”,
- all within a border.



pregnancy warning pictogram means the following pictogram with the silhouette of a pregnant woman holding a wine glass within a circle with a strikethrough:



prescribed alcoholic beverage means a beverage that:

- (a) has more than 1.15% alcohol by volume; and
- (b) either:
 - (i) is for retail sale; or
 - (ii) is sold as suitable for retail sale without any further processing, packaging or labelling; and
- (c) does not include a beverage that:
 - (i) is sold for retail sale; and
 - (ii) is packaged in the presence of the purchaser

standard drink, for a beverage containing alcohol, means the amount that contains 10 grams of ethanol when measured at 20°C.

size of type means the measurement from the base to the top of a letter or numeral.

[3.3] inserting after section 2.7.1—2

Division 2 Requisite statements

[3.4] inserting after section 2.7.1—4

Division 3 Restricted representations

[3.5] inserting after section 2.7.1—7

Division 4 Pregnancy warning labels

2.7.1—8 Requirement to display a pregnancy warning label

- (1) A *prescribed alcoholic beverage that has one layer of packaging must display a *pregnancy warning label on its package.
- (2) A *prescribed alcoholic beverage that has more than one layer of packaging must display a *pregnancy warning label on:
 - (a) the outer package; and
 - (b) either:
 - (i) the *individual unit; or
 - (ii) each *individual unit—if the packaging includes more than one individual unit.
- (3) Subsection (2) does not require a *pregnancy warning label to be on the outer package if a pregnancy warning label on an *individual unit is clearly discernible and not obscured by the outer package.
- (4) Subsection (2) does not require a *pregnancy warning label to be on the bladder within a box of a *prescribed alcoholic beverage.

2.7.1—9 Pregnancy warning label for one layer of packaging

- (1) A *prescribed alcoholic beverage that:
 - (a) is required by subsection 2.7.1—8(1) to display a *pregnancy warning label on its package; and
 - (b) is listed in Column 1 of the table to subsection (3):

must display the pregnancy warning label listed in Column 2 of that table on its package.
- (2) The pregnancy warning label required by subsection (1) must comply with any corresponding size requirements listed in Columns 3, 4 and 5 of the table to subsection (3).
- (3) The table to this subsection is:

Pregnancy warning label required

Column 1	Column 2	Column 3	Column 4	Column 5
<i>Prescribed alcoholic beverage</i>	<i>Pregnancy warning label to be displayed</i>	<i>Size of the *pregnancy warning pictogram or the pictogram of a *pregnancy warning mark</i>	<i>*Size of type of the signal words</i>	<i>*Size of type of the statement of a pregnancy warning mark</i>
A *prescribed alcoholic beverage with a volume not more than 200 ml.	The *pregnancy warning pictogram.	At least 8 mm diameter	Not applicable	Not applicable
A *prescribed alcoholic beverage with a volume more than 200 ml but not more than 800 ml.	The *pregnancy warning mark.	At least 6 mm diameter	At least 2.1 mm	At least 1.6 mm
A *prescribed alcoholic beverage with a volume more than 800 ml.	The *pregnancy warning mark.	At least 9 mm diameter	At least 2.8 mm	At least 2.1 mm

2.7.1—10 Pregnancy warning label for an outer package

- (1) A *prescribed alcoholic beverage that:
 - (a) is required by paragraph 2.7.1—8(2)(a) to display a *pregnancy warning label on its outer package; and
 - (b) is listed in Column 1 of the table to subsection (3);
 must display the pregnancy warning label listed in Column 2 of that table on its outer package.
- (2) The pregnancy warning label required by subsection (1) must comply with any corresponding size requirements listed in Columns 3, 4 and 5 of the table to subsection (3).
- (3) The table to this subsection is:

Pregnancy warning label required

Column 1	Column 2	Column 3	Column 4	Column 5
<i>Prescribed alcoholic beverage</i>	<i>Pregnancy warning label to be displayed</i>	<i>Size of the *pregnancy warning pictogram or the pictogram of a *pregnancy warning mark</i>	<i>*Size of type of the signal words</i>	<i>*Size of type of the statement of a pregnancy warning mark</i>
A *prescribed alcoholic beverage with: a volume not more than 200 ml; and packaging that includes only one *individual unit.	The *pregnancy warning pictogram.	At least 8 mm diameter	Not applicable	Not applicable
All other *prescribed alcoholic beverages.	The *pregnancy warning mark.	At least 11 mm diameter	At least 3.5 mm	At least 2.7 mm

2.7.1—11 Pregnancy warning label for an individual unit

- (1) A *prescribed alcoholic beverage that:
 - (a) is required by paragraph 2.7.1—8(2)(b) to display a *pregnancy warning label on one or more individual units; and

(b) is an individual unit that is listed in Column 1 of the table to subsection (3); must display the pregnancy warning label listed in Column 2 of that table on each such individual unit.

(2) The pregnancy warning label required by subsection (1) must comply with any corresponding size requirements listed in Columns 3, 4 and 5 of the table to subsection (3).

(3) The table to this subsection is:

Pregnancy warning label required

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Individual unit</i>	<i>Pregnancy warning label to be displayed</i>	<i>Size of the *pregnancy warning pictogram or the pictogram of a *pregnancy warning mark</i>	<i>*Size of type of the signal words</i>	<i>*Size of type of the statement of a pregnancy warning mark</i>
An *individual unit with a volume not more than 200 ml.	The *pregnancy warning pictogram.	At least 8 mm diameter	Not applicable	Not applicable
An *individual unit with a volume more than 200 ml but not more than 800 ml.	The *pregnancy warning mark.	At least 6 mm diameter	At least 2.1 mm	At least 1.6 mm
An *individual unit with a volume more than 800 ml.	The *pregnancy warning mark.	At least 9 mm diameter	At least 2.8 mm	At least 2.1 mm

2.7.1—12 Required form for pregnancy warning labels

- (1) A *pregnancy warning label required by this Division to be displayed must comply with this section.
- (2) The background of the *pregnancy warning label must be in the colour white.
- (3) The circle and strikethrough of the *pregnancy warning pictogram must be in the colour red.
- (4) The silhouette of a pregnant woman on the *pregnancy warning pictogram must be in the colour black.
- (5) The signal words of the *pregnancy warning mark must be:
 - (a) in the colour red; and
 - (b) in bold font; and
 - (c) in a sans-serif typeface; and
 - (d) in capital letters; and
 - (e) in English.
- (6) The statement of the *pregnancy warning mark must be:
 - (a) in the colour black; and
 - (b) in a sans-serif typeface; and
 - (c) in sentence case; and
 - (d) in English.
- (7) The border of the *pregnancy warning mark must be in the colour black.
- (8) The *pregnancy warning mark must be displayed on the package with a clear space that:

- (a) surrounds the outside of the border of the pregnancy warning mark; and
 - (b) is at least 3mm in width.
- (9) The *pregnancy warning label must be displayed as a whole and without modification.