## 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.

FSANZ accepted Application A1068 which seeks to permit the use of hydrogen peroxide as a processing aid to control the population of lactic acid producing microorganisms, and in so doing, stabilise the pH during the production of dairy products manufactured using lactic acid producing microorganisms. The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a draft variation to Standard 1.3.3.

Following consideration by COAG Legislative and Governance Forum on Food Regulation[[1]](#footnote-1), section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the standard or draft variation of a standard.

Section 94 of the FSANZ Act specifies that a standard, or 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 sunsetting under the *Legislative Instruments Act 2003*.

**2. Purpose and operation**

The Authority has approved a variation to Standard 1.3.3 to permit the use of hydrogen peroxide as a processing aid to control the population of lactic acid producing microorganisms, and in so doing, stabilise the pH during the manufacture of:

* fermented milk
* fermented milk products
* cheese made using lactic acid producing microorganisms
* cheese products made using lactic acid producing microorganisms.

The variation does not permit the use of hydrogen peroxide:

* as a processing aid in the manufacture of cheese and cheese products made otherwise than with lactic acid producing microorganisms;
* as an alternative to good hygienic practices during the manufacture of dairy products; or
* to stabilise deteriorating milk.

**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 A1068 has included one round of public consultation following an assessment and the preparation of a draft variation and associated report. Submissions were called for on 24 April 2012 for a six-week consultation period.

A Regulation Impact Statement (RIS) was not required because the proposed variations to Standard 1.3.3 are likely to have only a minor impact on business and individuals.

**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**

This variation permits the use of hydrogen peroxide as a processing aid to control the population of lactic acid producing microorganisms during the manufacture of:

* fermented milk;
* fermented milk products;
* cheese made using lactic acid producing microorganisms; and
* cheese products made using lactic acid producing microorganisms.
1. Previously known as the Australia and New Zealand Food Regulation Ministerial Council [↑](#footnote-ref-1)