

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 A1071 which seeks permission for the sale and use of food derived from herbicide-tolerant canola line MON88302. The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a draft variation to a Standard.

Following consideration by the COAG Legislative and Governance Forum on Food Regulation¹, section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the 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 sunseting under the *Legislative Instruments Act 2003*.

2. Purpose and operation

As it is not listed in the Schedule to Standard 1.5.2, food derived from canola line MON88302 is not currently permitted for sale or use in food. The Authority has approved a variation to Standard 1.5.2 to permit the sale, or use in food, of food derived from canola line MON88302 in the Schedule.

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 A1071 included one round of public consultation following an assessment and the preparation of a draft variation to the Standard and associated report. Submissions were called for on 17 August 2012 for a six-week consultation period.

A Regulation Impact Statement was not required because the proposed variation to Standard 1.5.2 is likely to have 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.

¹ Previously known as the Australia and New Zealand Food Regulation Ministerial Council

6. Variation

This item adds food derived from canola line MON88302 into the Schedule to Standard 1.5.2.