

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 A1077 which seeks to permit chitosan sourced from *A. niger* as a processing aid for the manufacture of various alcoholic beverages. The Authority considered the Application in accordance with Division 1 of Part 3 and has approved draft variations to Standards 1.3.1 and 4.5.1.

Following consideration by COAG Legislative and Governance Forum on Food Regulation¹, 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 sunseting under the *Legislative Instruments Act 2003*.

2. Purpose

The Authority has approved permission to use chitosan sourced from *A. niger* as a processing aid in the manufacture of various alcoholic beverages.

The Authority has prepared a variation to Standard 1.3.3 to permit chitosan sourced from *A. niger* as a processing aid to be used in the manufacture of wine, beer, cider, spirits and food grade alcohol.

The Authority has also prepared a variation to Standard 4.5.1 – Wine Production Requirements which is an Australian-only Standard for permission to use chitosan sourced from *A. niger* as a processing aid in the production of Australian produced wine. A separate permission is required to be incorporated into this Standard since it is a standalone Australian-only Standard that covers Australian-produced wine. Processing aid permissions for imported wine and New Zealand-produced wine are covered by Standard 1.3.3.

3. Documents incorporated by reference

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

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

4. Consultation

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1077 included one round of public consultation following an assessment and the preparation of draft variations and associated reports. Submissions were called for on 12 August 2013 for a six-week consultation period.

A Regulation Impact Statement was not required because the proposed variations to Standards 1.3.3 and 4.5.1 are 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.

6. Variation

Item [1] permits the use of chitosan sourced from *Aspergillus niger* as a processing aid for the manufacture of wine, beer, cider, spirits and food grade ethanol at GMP.

Item [2] permits the use of chitosan sourced from *Aspergillus niger* as a processing aid for the manufacture of Australian produced wine.