

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 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

FSANZ prepared Proposal P1033 to make a number of relatively minor amendments to the Code. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved draft variations to a number of Standards.

Following consideration by the 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 draft variations. The issues considered are relatively minor in nature, and fall into the following broad categories:

- correcting minor errors and omissions, and improving clarity
- updating references
- updating material from international sources
- omitting material that is no longer required
- variations to Editorial notes.

3. Documents incorporated by reference

Some of the variations to food regulatory measures update documents incorporated by reference. The documents are as follows:

- Generally Recognised as Safe (GRAS) lists of flavouring substances published by the Flavour and Extract Manufacturers' Association of the United States from 1960 to 2013 (edition 26)
- Chemically-defined flavouring substances, Council of Europe, November 2000
- Annex 1 of Council Regulation (EU) No 872/2012 of 1 October 2012 adopting the list of flavouring substances [2012] OJ L267/1
- 21 CFR § 172.515

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

- United States Pharmacopeial Convention (2014) Food chemicals codex. 9th ed, United States Pharmacopeial Convention, Rockville, MD.
- Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives
- the Specifications and Standards for Food Additives, 8th Edition (2007), Ministry of Health and Welfare (Japan).

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1033 included one round of public consultation following an assessment and the preparation of draft variations to a number of Standards and associated assessment summary. Submissions were called for on 6 June 2014 for a four-week consultation period.

A Regulation Impact Statement was not required because of the nature of the proposed variations as described in section 2 above.

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. Variations

6.1 Correcting minor errors and omissions, and improving clarity

Items [1], [3.1]–[3.5], [6], [7], [8.2], [9.2], [9.5]–[9.6], [11], [12.3], [13]–[18], [20], [21] and [24.2]–[24.3] include amendments to correct minor errors and omissions to text and punctuation, as well improving clarity of some text.

6.2 Updating references

Items [3.6], [10], [19] and [22] update references including changes to the names of Standards or cross-references within the Code or to relevant Australian legislation.

6.3 Updating material from international sources

Items [4.1]–[4.10], [9.1], [9.3]–[9.4], [9.8]–[9.9] and [12.1]–[12.2] reflect changes to documents incorporated by reference or changes in nomenclature or INS numbering developed by international bodies. Additional references are included in paragraphs 11(a) of Standard 1.3.1 and 2(c) of Standard 1.3.4.

6.4 Omitting material that is no longer required

Item [2] omits provisions that have ceased to have effect.

Item [24.1] removes duplication of definitional text which is already located in Standard 1.1.1.

6.5 Variations to Editorial notes

Items [4.11]–[4.12] and [9.7] delete three editorial notes that are out-of-date.

Items [5], [8.1], [8.3] and [23] amend or delete Editorial notes to remove information that is not suitable for inclusion in an Editorial note or update cross-references within the Code.

Editorial notes are not, by virtue of the definition of a 'standard' in the FSANZ Act, part of a draft standard and are therefore not subject to the standards development process under part 3 of the FSANZ Act. The Editorial notes have only been provided for completeness.