

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 A1088 which seeks to include sodium hydrosulphite (sodium dithionite) as a food additive (antioxidant) to be used in canned abalone. The Authority considered the Application in accordance with Division 1 of Part 3 and has prepared a draft variation.

Following consideration by the Australia and New Zealand Ministerial 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 the use of sodium hydrosulphite as a food additive to be added to canned abalone.

Other sulphite food additives currently permitted to treat canned New Zealand abalone (paua) are less effective in bleaching the natural black colour to a commercially acceptable colour for consumers, especially for export markets. Sodium hydrosulphite bleaches New Zealand abalone to the usual honey blonde colour favoured by consumers and importers.

The variation will add sodium hydrosulphite to the list of food additives permitted for use on canned abalone (paua) under food category 9.4 in Schedule 1 of Standard 1.3.1. The maximum permitted level for sodium hydrosulphite is the same as the levels permitted for the other currently permitted sulphite food additives in relation to canned abalone (paua) at the time of this variation.

In addition, hydrosulphites, including sodium hydrosulphite, will be added to the list of other sulphites that are calculated as sodium dioxide in relation to maximum permitted levels under subclause 5(2) of the Standard.

The variation will also amend Schedule 2 of Standard 1.2.4 to provide the prescribed name of the food additive for labelling purposes.

¹ convening as the Australia and New Zealand Food Regulation Ministerial Council

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 A1088 included one round of public consultation following an assessment and the preparation of draft variations and associated reports. Submissions were called for on 16 May 2014 for a six-week consultation period.

A Regulation Impact Statement was not required because the proposed variations to Standards 1.2.4 and 1.3.1 is a broadening of food regulations to permit an alternative food additive and 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.

6. Variation

Item [1] amends Schedule 2 of Standard 1.2.4 to include a reference to Sodium hydrosulphite in Parts 1 and 2 of that Schedule. There is no food additive number for that substance.

Item [2] amends Standard 1.3.1.

Item [2.1] amends the statement in subclause 5(2) of Standard 1.3.1 for calculation of sulphur dioxide and sulphites. A reference to hydrosulphites is included in the statement. The statement's meaning is also clarified by the addition of the word 'and'.

Item [2.2] amends Schedule 1 of Standard 1.3.1 to insert a permission to use sodium hydrosulphite as a food additive to treat canned abalone and to set a maximum permitted level in relation to that use. The maximum permitted level is the same as that currently permitted for the other currently permitted sulphite food additives in relation to canned abalone (paua).