

## **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 P1025 to revise the Code. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft revised Code.

Following consideration by the Legislative and Governance Forum on Food Regulation<sup>1</sup>, 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 variations of Chapters 1 and 2 of the Code.

### **3. Documents incorporated by reference**

The variations to food regulatory measures do not incorporate any documents by reference. The variations update some references to documents that are incorporated by reference.

### **4. Consultation**

In accordance with the procedure in Subdivision F of Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1025 included two rounds of public comment following an assessment and the preparation of a draft Standard and associated reports. Submissions were called for on 23 May 2013 for a 12-week period, and on 10 July 2014 for an eight-week period.

A Regulation Impact Statement was not required, because the proposed variations to the Code 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.

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<sup>1</sup> Previously known as the Australia and New Zealand Food Regulation Ministerial Council

## **6. Variation (Chapter 1—Introduction and standards that apply to all foods, Part 3—Substances added to food)**

### **Standard 1.3.3 – Processing aids**

#### *Division 1 Preliminary*

##### New section 1.3.3—1 Name

This section establishes that the instrument is the *Australia New Zealand Food Standards Code* – Standard 1.3.3 – Processing aids.

##### New section 1.3.3—2 Definitions

This section has no operative part. It provides note references to definitions of substances and foods ‘used as a processing aid’ that are in section 1.1.2—13.

##### New section 1.3.3—3 Permission to use substance as processing aid

This new section sets out the permission for the use of substances as processing aids. Substances may be used as processing aids if they perform a technological purpose during, but not after, processing; are used only at the level required by GMP or a stated maximum level and the use is expressly permitted by the Standard.

#### *Division 2 Processing aids that may be used with any food*

##### New section 1.3.3—4 Generally permitted processing aids for all foods

New section 1.3.3—4 sets out the basic condition for use of processing aids that can be used for any technological purpose. The section repeats the content of clause 3 of Standard 1.3.3.

Foods, any additive permitted at GMP and the substances listed in section S18—2 can be used as generally permitted processing aids.

The condition for use is that a generally permitted processing aid may be used only at the level necessary to achieve a technological purpose in the processing of the food.

New subsection (3) repeats the restrictions on the use of carbon monoxide in fish that are in clause 3A of Standard 1.3.3.

##### New section 1.3.3—5 Processing aids for certain purposes for all foods

New section 1.3.3—5 repeats the provisions now in clauses 4 to 10 of Standard 1.3.3, which list the substances that may be used as processing aids for the technological purposes of anti-foam agent, catalyst, decolourant, clarifying, filtration or absorbent agent, desiccating preparation, ion exchange agent, lubricant, release or anti-stick agent or carrier, solvent or diluent.

##### New section 1.3.3—6 Enzymes

New section 1.3.3—6 repeats the current provisions of clauses 15 to 17 of Standard 1.3.3.

##### New section 1.3.3.—7 Microbial nutrients and microbial nutrient adjuncts

New section 1.3.3—7 repeats the current content of clause 18 of Standard 1.3.3.

#### *Division 3 Processing aids that can be used with specified foods*

##### New section 1.3.3—8 Processing aids for water

New section 1.3.3—8 repeats the current provisions of clause 11 of Standard 1.3.3.

New section 1.3.3—9 Bleaching, washing and peeling agents – various foods

New section 1.3.3—9 repeats the current content of clause 12 of Standard 1.3.3.

New section 1.3.3—10 Extraction solvents – various foods

New section 1.3.3—10 repeats the current content of clause 13 of Standard 1.3.3.

New section 1.3.3—11 Processing aids that perform various technological purposes

New section 1.3.3—11 repeats the current provisions of clause 14 of Standard 1.3.3.

New section 1.3.3—12 Microbial control agent—dimethyl dicarbonate

New section 1.3.3—12 repeats the current content of clause 19 of Standard 1.3.3.