

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 A1104 which sought to permit the voluntary addition of vitamins and minerals to nut- and seed-based beverages. The Authority considered the Application in accordance with Division 1 of Part 3 and has approved 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 purpose of the approved draft variation is to permit the voluntary fortification with vitamins and minerals of nut- and seed-based analogues of milk with prescribed properties. The prescribed properties are that the analogues of milk contain no less than 0.3% m/m of protein derived from cereals, nuts, seeds, or any combination of these ingredients. An additional purpose of the draft variation is to extend the mandatory advisory statement that applies to cereal-based analogues to beverages derived from cereals, nuts, seeds, or any combination of those ingredients.

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 A1104 will include one round of public consultation following an assessment and the preparation of a draft Standard and associated report.

A Regulation Impact Statement was not required because the proposed variations to Standard 1.1.2, Schedules 9 and 17 are likely to have a minor impact on business and individuals.

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

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] varies the definition of 'food group' in subsection 1.1.2—2(3) to include dairy analogues derived from nuts and seeds.

Item [2] varies the table to section S9—2 in Schedule 9 by extending the advisory statement requirements for beverages derived from cereals to apply to beverages derived from cereals, nuts, seeds, or any combination of those ingredients.

Item [3] varies the table to section S17—4 in Schedule 17 to permit the addition of specified vitamins and minerals to beverages derived from nuts or seeds or a combination of nuts, seeds or cereals, and containing no less than 0.3% m/m protein derived from those ingredients. For each vitamin or mineral, a maximum claim amount is specified in column 2 and where listed, a maximum permitted amount is specified in column 3.