

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 A1119 which sought a variation to permit the addition of water to dilute high sugar musts to aid fermentation in the production of wine, sparkling wine and fortified wine. 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 Regulation, 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 *Legislation Act 2003*.

2. Purpose

The Authority has approved variations to Standard 4.5.1 and Schedule 2 to permit the addition of water to dilute high sugar musts to facilitate wine fermentations by limiting fermentation problems such as 'stuck' fermentations due to very high sugar contents in the original grape musts (grape extract).

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 A1119 included one round of public consultation following an assessment and the preparation of a draft variation and associated report. Submissions were called for on 29 June 2016 for a six-week consultation period.

A Regulation Impact Statement was not required because the proposed variations to Standard 4.5.1 and Schedule 2 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]

Item [1] amends Standard 4.5.1. It omits and replaces subclause 5(7) with five new subsections.

New subclause 5(7) permits wine, sparkling wine and fortified wine to contain water: necessary to incorporate any substance specified in clause 3 or clause 4 of Standard 4.5.1; necessary to facilitate fermentation; or incidental to the winemaking process.

New subclause 5(7A) provides that wine, sparkling wine and fortified wine must not contain other types of added water.

New subclause 5(7B) provides that the total, combined amount of the following categories of water in wine, sparkling wine and fortified wine must not exceed 70mL/L: water added to incorporate any substance specified in clause 3 or clause 4 of Standard 4.5.1; and water incidental to the winemaking process.

New subclause 5(7C) provides an express permission for the addition of water to wine, sparkling wine and fortified wine to facilitate fermentation. The subclause provides that: the water may only be added to dilute high sugar grape must, the water must be added prior to fermentation; and the addition of that water must not dilute the grape must sugar concentration below 13.5 degrees Baumé (abbreviated as Bé)

New subclause 5(7D) provides that, subject to subclauses 5(7A), 5(7B) and 5(7C), the amount of added water in wine, sparkling wine and fortified wine must be consistent with good manufacturing practice. The term 'good manufacturing practice' is defined in section 1.1.2—2(3) of the Code.

Item [2]

Item [2] amends Schedule 2. It adds the unit of measurement for 'degrees Baumé', being 'Bé', to the table to section S2—2.