

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.

The Authority accepted application A1158 which seeks to permit use of rosemary extract as a food additive to perform the technological purpose of an antioxidant. The Authority considered the application in accordance with Division 1 of Part 3 and has prepared a draft Standard.

2. Purpose

The Authority has prepared a draft amendment to the table at section S15—5 in Schedule 15 to permit the use of rosemary extract as a food additive to perform the technological purpose of an antioxidant in the food groups and at the maximum concentrations (expressed as the sum of carnosic acid and carnosol in mg/kg) as listed in the table below.

| Food category no. | Description | Maximum concentration* (mg/kg) | Included Foods |
|-------------------|---|--------------------------------|---|
| 2.1 | Edible oils essentially free of water | 50 | Fish oil and algal oil only |
| 2.2.1.3 | Oil emulsions (<80% oil) | 75 | Margarines (solid and liquid) only |
| 4.3.4 | Fruit and vegetable spreads including jams, chutneys and related products | 50 | Nut butters and nut spreads only |
| 5.4 | Icings and frostings | 20 | |
| 6.3 | Processed cereals and meal products | 50 | Grain bars, breakfast bars, breakfast cereals only |
| 6.4 | Flour products | 10 | Excluding pasta and noodles |
| 7.2 | Biscuits, cakes and pastries | 40 | |
| 8.2 | Processed meat, poultry and game products in whole cuts or pieces | 15 | Meat with a fat content not higher than 10%, excluding dried sausages |
| | | 37.5 | Meat with a fat content > 10%, excluding dried sausages |
| 8.2.3 | Dried Meat | 150 | |
| 8.3.2 | Sausage and sausage meat containing raw, unprocessed meat | 100 | Dried sausages only |
| 12 | Salts and condiments | 40 | |
| 20.2.04 | Sauces and toppings (including mayonnaises and salad dressings) | 50 | |
| 20.2 | Foods not included in items 0 to 14 - Food other than beverages | 50 | Processed nuts only |
| 20.2 | Foods not included in items 0 to 14 - Food other than beverages | 20 | Potato chips, including starch based snacks from roots and tubers, pulses |

* Based on the whole food expressed as the sum of carnosic acid plus carnosol

As a consequence to amendments to Schedule 15, the Authority has also prepared a draft amendment to Standard 1.3.1—4(6) to list rosemary extract as the sum of carnosic acid and carnosol.

The Authority has also prepared an amendment to Schedule 8 to prescribe the use of the words “rosemary extract” and INS number 392 to describe the permitted antioxidant food additive for labelling purposes

3. Documents incorporated by reference

The approved draft variations to food regulatory measures do not incorporate any documents by reference.

Existing provisions of the Code incorporate a document by reference that will prescribe identity and purity specifications for the food additive to be permitted by the approved draft variation. Section 1.1.1—15 of the Code requires substances used as food additives to comply with any relevant identity and purity specifications listed in Schedule 3 of the Code. Section S3—2 of Schedule 3 incorporates by reference the specifications listed in Food Chemicals Codex (10th edition). This includes a specification for rosemary extract.

4. Consultation

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority’s consideration of Application A1158 will include one round of public consultation following an assessment and the preparation of a draft variation and associated assessment summary.

A call for submissions (including the draft variation) will occur for a six-week consultation period.

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 subsection 1.3.1—4(6) of Standard 1.3.1. to insert a new entry for rosemary extract calculated as the sum of carnosic acid and carnosol.

Item [2] varies the tables in section S8—2 of Schedule 8 to insert references to rosemary extract and to its INS Number 392 in the alphabetical and numerical lists of food additives names used for labelling purposes.

Item [3] varies the table to section S15—5 in Schedule 15 to insert permissions for rosemary extract to be added as a food additive in specific classes of foods subject to the maximum permitted level (expressed as the sum of carnosic acid and carnosol in mg/kg) specified for each class.