

# 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.

The Authority prepared Proposal P1051 to make a range of minor amendments to the Code. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft variation with amendments.

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

Minor typographical and grammatical errors, formatting and cross referencing issues are identified in the Code from time-to-time. References in the Code also become superseded as the documents they refer to are updated. The Authority approved this variation to resolve a number of such issues.

## 3. Documents incorporated by reference

The approved draft variation does not incorporate any documents by reference not already incorporated into the current Code. It updates the following existing references in the Code (see sections 6.3 below):

- United States Code of Federal Regulations;
- Generally Recognised as Safe (GRAS) lists of flavouring substances published by the Flavour and Extract Manufacturers' Association of the United States;
- Combined Compendium of Food Additive Specifications, FAO JECFA Monographs 1 (2005), Food and Agriculture Organisation of the United Nations, Rome;
- United States Pharmacopeial Convention (2020) Food chemicals codex. 12<sup>th</sup> ed, United States Pharmacopeial Convention, Rockville, MD;
- United States Pharmacopeial Convention (2020) United States Pharmacopeia (43) and the National Formulary (38), (USP 43-NF 38), United States Pharmacopeial Convention, Rockville, MD; and
- Specifications and Standards for Food Additives, 9<sup>th</sup> Edition (2018), Ministry of Health and Welfare (Japan).

## 4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1051 included one round of consultation following an assessment and the preparation of draft variations to a number of Standards and an associated assessment summary. Submissions were called for on 3 October 2020 for a four-week consultation period.

A Regulation Impact Statement was not required because the variation 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. Variations**

### ***6.1 Correcting minor errors and omissions***

Items [3] to [20], [21], [23], [25] to [28], [31], [36], part of [37], [38] to [51], and [54] of the Schedule to the approved draft variation include amendments to correct minor errors and omissions to format, text and punctuation, as well to improve the clarity of some text.

### ***6.2 Updating references***

Items [22], [24], [52], [53] and [55] of the Schedule to the approved draft variation include amendments to correct cross-references within the Code.

### ***6.3 Updating material from international sources***

Items [1], [2], [29], [30], [32] to [35] and part of [37] of the Schedule update references to international publications.