

Food Standards (Proposal P1052 – Primary Production and Processing requirements for Horticulture (Berries, Leafy Vegetables and Melons) – Consequential Amendments) Variation

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 P1052 to consider mandating the use of three primary production and processing requirements for horticulture (berries, leafy vegetables and melons). The Authority considered the Proposal in accordance with Division 2 of Part 3 and has prepared three draft standards and a draft consequential variation to Standard 1.1.1.

2. Purpose

The Authority has prepared a draft variation called *Food Standards (Proposal P1052 – Primary Production and Processing requirements for Horticulture (Berries, Leafy Vegetables and Melons) – Consequential Amendments) Variation* to make a consequential amendment to Standard 1.1.1 to account for the commencement of Standards 4.2.7, 4.2.8 and 4.2.9.

3. Documents incorporated by reference

The draft consequential variation does not incorporate any documents by reference.

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1052 included two rounds of public consultation following an assessment, targeted communication with key stakeholders, and the preparation of three draft standards and associated assessment summaries.

The first call for submissions was held between February and March 2020. Targeted consultation was undertaken in December 2020–January 2021. The second call for submissions was held between November 2021 and February 2022.

A Standards Development Advisory Group was established with representatives from the industry sector and State, Territory and federal government agencies to provide ongoing advice to FSANZ throughout the standard development process. A Horticulture Implementation Working Group comprised of State, Territory and federal government regulators was established by the Implementation Sub-committee for Food Regulation to work with FSANZ and ensure a nationally consistent approach to implementation of the standards.

A Decision Regulation Impact Statement (DRIS) was prepared by the Authority and has been approved by The Office of Best Practice Regulation (Reference - OBPR22-01822).

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

Clause 1 provides that the name of the variation is *Food Standards (Proposal P1052 – Primary Production and Processing requirements for Horticulture (Berries, Leafy Vegetables and Melons – Consequential Amendments) Variation*.

Clause 2 provides that the Code is amended by the Schedule to the variation.

Clause 3 provides that the variation will commence immediately after draft Standards 4.2.7, 4.2.8 and 4.2.9 take effect.

Item [1] of the draft Variation amends subsection 1.1.1—2(2) by omitting the reference to ‘Standard 4.2.6 Production and Processing Standard for Seed Sprouts’ in the list of standards in that subsection and replacing that reference with references to:

“Standard 4.2.6 Production and Processing Standard for Seed Sprouts
Standard 4.2.7 Primary Production and Processing Standard for Berries
Standard 4.2.8 Primary Production and Processing Standard for Leafy Vegetables
Standard 4.2.9 Primary Production and Processing Standard for Melons”

Subsection 1.1.1—2(2) lists all the standards of the Code arranged into Chapters, Parts and a set of Schedules. The list does not currently contain references to the new standards.

The effect of this amendment is that the new draft standards are listed in subsection 1.1.1—2(2), under Chapter 4 (Primary production standards), in numerical order according to the number of the relevant Standard.

Clause 4 of the *Food Standards (Proposal P1052 – Primary Production and Processing Requirements for Horticulture (Berries, Leafy Vegetables and Melons) – Consequential Amendments) Variation* (the draft Variation) states that the draft Variation commences after the new draft Standards commence.