

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 A1103 which sought to amend Standard 1.3.1 of the existing Code to allow the use of citric and lactic acid as food additives (acidity regulators) in beer and related products under Schedule 1 (food category 14.2.1).

The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a variation to Standard 1.3.1.

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 draft variation.

Section 94 of the FSANZ Act specifies that 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 Authority has approved a draft variation to Standard 1.3.1 of the existing Code, which would allow the use of citric and lactic acid as food additives (acidity regulators) in beer and related products.

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 A1103 included one round of public consultation following an assessment and the preparation of a draft variation and associated report.

A Regulation Impact Statement (RIS) was not required because the proposed variation to Standard 1.3.1 of the existing Code will have a minor impact on business and individuals. The Office of Best Practice Regulation has exempted the need for a RIS for applications relating to food additives, as they are machinery in nature and their use is voluntary.

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 of the Schedule to the draft variation amends Standard 1.3.1 of the existing Code by inserting, in numerical order, two new entries into item 14.2.1 Beer and related products in Schedule 1 of the Standard.

These new entries are Lactic acid (INS number 270) and Citric acid (INS number 330), each of which would be permitted to be added to beer and related products at levels consistent with GMP.