## 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.

FSANZ prepared Proposal M1008 to amend certain MRLs for residues of agricultural and veterinary chemicals. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft Standard.

Following consideration by COAG Legislative and Governance Forum on Food Regulation[[1]](#footnote-1), 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 sunsetting under the *Legislative Instruments Act 2003*.

**2. Purpose and operation**

The purpose of the variation to Standard 1.4.2 is to vary MRLs for residues of agricultural and veterinary chemicals in food.

Standard 1.4.2 lists the limits for agricultural and veterinary chemical residues which may occur in foods. If a limit is not listed for a particular agricultural or veterinary chemical/food combination, there must be no detectable residues of that chemical in that food. This general prohibition means that, in the absence of the relevant limit in the Code, food may not be sold where there are detectable residues.

MRL variations may be required to permit the sale of foods containing legitimate residues. These are technical amendments following changes in use patterns of agricultural and veterinary chemicals available to chemical product users. These changes include both the development of new products and crop uses, and the withdrawal of older products following review. In regard to Australia’s WTO obligations, limits may be harmonised with international or trading partner standards. Internationally, farmers face different pest and disease pressures, agricultural and veterinary chemical use patterns and the legitimate residues in food associated with these uses may vary accordingly.

A dietary exposure assessment is conducted before MRLs are varied to ensure that proposed limits do not present any public health or safety concerns.

**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 2 of Part 3 of the FSANZ Act, the Authority’s consideration of Proposal M1008 has included one round of public consultation following an assessment and preparation of draft variations to Standard 1.4.2 and associated reports. Submissions were called for on 17 July 2012 for a four-week consultation period.

A Regulation Impact Statement (RIS) was not required because the proposed variations to Standard 1.4.2 are minor and do not substantially alter existing arrangements. Business compliance costs and other impacts on business, individuals, regulatory agencies and the economy are low or nil. The regulatory proposal does not impose impacts on business, individuals, regulatory agencies or the economy that warrant further analysis. The changes to regulation are machinery in nature involving technical variations to the Standard, which will not have appreciable impacts and are consistent with existing policy.

**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**

Items 1.1 to 1.4 set out amendments to Schedule 1 of Standard 1.4.2.

***Item 1.1***

This item inserts new entries for the chemicals listed. The entries include the chemical name, residue definition, foods and associated MRLs. This item incorporates the new entries in alphabetical order among the chemicals listed in the Schedule. This item will also result in Schedule 1 containing two chemical residue definitions related to dicamba.

***Item 1.2***

This item omits the foods and associated MRLs for the chemicals listed.

***Item 1.3***

This item inserts the foods and associated MRLs for the chemicals listed. It incorporates the new entries in alphabetical order among the foods listed under each chemical.

***Item 1.4***

This item omits the MRL for the foods listed, replacing it with the limit shown for each of the chemicals listed.

1. Previously known as the Australia and New Zealand Food Regulation Ministerial Council [↑](#footnote-ref-1)