

## **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 P1025 to revise the Code. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has approved a draft revised Code.

Following consideration by the Legislative and Governance Forum on Food Regulation<sup>1</sup>, 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 *Legislative Instruments Act 2003*.

### **2. Purpose**

The Authority has approved variations of Chapters 1 and 2 of the Code.

### **3. Documents incorporated by reference**

The variations to food regulatory measures do not incorporate any documents by reference. The variations update some references to documents that are incorporated by reference.

### **4. Consultation**

In accordance with the procedure in Subdivision F of Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1025 included two rounds of public comment following an assessment and the preparation of a draft Standard and associated reports. Submissions were called for on 23 May 2013 for a 12-week period, and on 10 July 2014 for an eight-week period.

A Regulation Impact Statement was not required, because the proposed variations to the Code are 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. Variation (Chapter 1—Introduction and standards that apply to all foods, Part 4—Contaminants and residues)**

#### ***Standard 1.4.2 – Agvet chemicals***

This Standard substantially repeats the current content of Standard 1.4.2 – Maximum Residue Limits.

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<sup>1</sup> Previously known as the Australia and New Zealand Food Regulation Ministerial Council

The Standard is renamed to more accurately describe the purpose, which is to establish the maximum levels of the residues of agricultural and veterinary (agvet) chemicals that are permitted in food after a consideration of good agricultural practice and an assessment of the potential for harm to public health and safety at that level. MRLs do not establish limits for safety purposes.

The specification of maximum residue limits for agricultural and veterinary chemicals is not included as a joint standard in the Australia New Zealand food standards system. New Zealand has established its own standard.

#### New section 1.4.2—1 Name

This section establishes that the instrument is the *Australia New Zealand Food Standards Code* – Standard 1.4.2 – Agvet chemicals.

#### New section 1.4.2—2 Purpose of Standard

New section 1.4.2—3 provides that the objective of the Division is to establish the maximum residue levels of agvet chemicals in food for sale. An editorial note indicates how the levels are determined.

#### New section 1.4.2—3 Definitions and interpretation

New subsection 1.4.2—3 provides notes that cross reference to the new definitions of ‘agvet chemical’, ‘extraneous residue limit’ and ‘maximum residue limit’ in subsection 1.1.2—2(3) and provides a definition of permitted residue for this Standard. Agvet chemical has the same meaning as in the Commonwealth *Agricultural and Veterinary Chemicals Code Act 1994*.

New subsection (2) re-states the current provision in subclause 4(1) of Standard 1.4.2 that specifies the portion of a food that is relevant for testing residue levels. Schedule 22 contains the list of commodities that is currently in Schedule 4 to Standard 1.4.2.

New subsection (3) re-states current subclause 4(2) of Standard 1.4.2, which provides that the maximum residue limit is to be applied to processed and unprocessed forms of a food unless a specific maximum residue limit is designated for the processed food.

New subsection (4) is a new provision that is to clarify that, for the purposes of the Standard and the Schedules of maximum residue limits and extraneous residue limits, a reference to a food is a reference to a food described in Schedule 22.

#### New section 1.4.2—4 Maximum residue limit of agvet chemicals in foods

New subsection (1) provides that a food listed in Schedule 20 may contain a permitted residue of an agvet chemical that is listed in Schedule 20 for that food.

New subsection (2) provides that the level calculated by subsection 1.4.2—3(2) shall not exceed the level listed in Schedule 20. This new provision repeats the effect of the current definition of ‘maximum residue limit’ and subclause 1(7) of Standard 1.4.2.

New subsection (3) repeats the current content of subclause 4(4) of Standard 1.4.2, which provides a mechanism to determine the amount of permitted residues for foods with more than one ingredient.

#### New section 1.4.2—5 Extraneous residue limit of agvet chemicals in foods

New subsection (1) provides that an extraneous presence can only arise from environmental sources and not from direct or indirect application of an agvet chemical.

New subsection 1.4.2—5(2) provides that a food listed in Schedule 21 may contain a residue not greater than the amount listed in Schedule 21.

New subclause (3) mirrors the current provisions for maximum residue limits for calculating and applying levels when a food has two or more ingredients.