

## **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 A1139 which seeks approval for food derived from genetically modified potato lines W8, X17 and Y9, which are disease-resistant and have low acrylamide potential and reduced browning. The Application also seeks approval for food derived from progenitor lines F10 and J3 which have reduced acrylamide potential and reduced browning. The Authority considered the Application in accordance with Division 1 of Part 3 and has approved a draft variation.

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**

The purpose of this instrument is to amend the table to subsection S26—3(4) of Schedule 26 of the Code (permitted food produced using gene technology and conditions) to permit the use or sale of food derived from potato lines W8, X17, Y9, F10 and J3.

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

This variation to a food regulatory measure does 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 A1139 included one round of public consultation following an assessment and the preparation of a draft variation and associated report. Submissions were called for on 26 May 2017 for a six-week consultation period.

A Regulation Impact Statement was not required by the Office of Best Practice Regulation (see ID 12065) because the proposed variation to Schedule 26 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. Variation**

Item [1] inserts paragraphs (e) and (f) into item 5 of the table to subsection S26—3(4) of Schedule 26 of the Code. The new paragraphs refer to reduced acrylamide potential and reduced browning potato lines F10 and J3; and disease-resistant, reduced acrylamide potential and reduced browning potato lines W8, X17 and Y9. The effect of the variation is to permit the sale and use of food derived from these potato lines in accordance with Standard 1.5.2.