

## Technical Alert

### Low-THC Hemp Seed Foods approved by FSANZ

#### Hemp as Food

Food Standards Australia New Zealand (FSANZ) have approved low-THC hemp seeds, and low-THC hemp seed derived food and beverages for use in Australian and New Zealand.

Compilation No. 2 amending [Food Standard 1.4.4](#) – ‘Prohibited and restricted plants and fungi’ came into force on **12 November 2017** on the Federal Register of Legislation. The amendment to the standard now exempts low-THC hemp seeds from the list of prohibited plants.

Food Standard 1.2.7 ‘Nutrition, health and related claims’ was also amended to recognise that Standard 1.4.4 proscribes health claims and nutrition content claims in relation to cannabidiol in hemp food products.

Foods for sale derived from hemp seeds may be described as ‘Hemp’, but not as marijuana or cannabis. Cannabidiol must not be present in any food for sale at a level greater than 75 mg/kg.

#### Hemp Seeds\*

The product for sale must:

- Be the seeds of low-THC cannabis
- If for retail sale, be hulled, unviable (non-germinating) seeds only
- Only have naturally occurring cannabinoids, containing not more than 5 mg/kg of total THC

#### Other Hemp Foods

The following products may be a food or as an ingredient in a food for sale:

- Hemp seed oil containing not more than 10 mg/kg of total THC
- A beverage made from low-THC hemp seeds, if it contains not more than 0.2 mg/kg total THC
- Any other product that is extracted or derived from low-THC hemp seeds, containing not more than 5 mg/kg of total THC.

#### Prohibited References on Foods

Hemp based foods for sale must not contain:

- the words ‘cannabis’, ‘marijuana’ or words of similar meaning.
- an image or representation of any part of *Cannabis sativa* (including the leaf), other than the seed
- a nutrition content claim about cannabidiol
- a health claim about cannabidiol

### \*Poisons Standard

The Poisons Standard is a document compiled by the Department of Health's Therapeutic Goods Administration. Cannabis, including the seeds and oil (other than for external use) are still subject to the [Poisons Standard](#) Schedule 9 – Prohibited Substance (except where they are for therapeutic use where they fall under Schedule 8 – Controlled Drug..

Schedule 9 provides for substances that should be available only for teaching, training, medical or scientific research, including clinical trials conducted with the approval of Commonwealth and/or State and Territory health authorities. The method by which Schedule 9 is implemented in the States and Territories may vary.

The legal intersection between the updated Food Standards and the Poisons Standard will remain a matter for individual New Zealand and Australian State and Territory legislation. Legislation may still need to be amended to permit the sale of low-THC hemp seeds as a food, and members should check with their local authorities before supplying hemp products.

Further updates will be provided by CMA on these matters as they become available.

### Background

On the 25 August 2016, CMA provided a submission to FSANZ, urging the Australian and New Zealand Ministerial Forum on Food Regulation to approve FSANZ *Proposal 1042* to permit low-THC hemp to be legally designated as a food.

This follows years of consultation including:

- *Application A1039 - Low THC Hemp as a Food, 16 December 2014.*
- *Application A1039 - Low THC Hemp as a Food, 8 November 2012*
- *Application A1039 was submitted on 4 December 2009, seeking approval for the use of the seed and seed products of Cannabis sativa (C. sativa) with low levels of delta 9-tetrahydrocannabinol (THC) as food.*

In approving the new Food Standard, the effect on drug testing was considered. A report by the Swinburne University of Technology regarding consumption of low THC foods and the effect on random drug testing protocols in Australia and New Zealand (the Consumption Report) showed that it is highly unlikely that consumption of food products containing the levels of THC tested would result in any positive tests on oral fluid, blood or urine.

CMA Submission: *Proposal P1042 - Low THC Hemp Seeds as Food* can be accessed [here](#).

## Amendments to Food Standard 1.4.4 in relation to low-THC Hemp Seeds

### 1.4.4—6 Exception relating to *Cannabis sativa* seeds and seed products

- (1) *Cannabis sativa* seeds may be a food for sale or used as an ingredient in a food for sale if:
  - (a) the seeds:
    - (i) are seeds of low THC *Cannabis sativa*; and
    - (ii) contain not more than 5 mg/kg of total THC; and
    - (iii) if the food is for retail sale – are non-viable and hulled; and
  - (b) the only cannabinoids in or on the seeds are naturally present.
- (2) Subject to subsection (3), all or any of the following seed products may be a food for sale or used as an ingredient in a food for sale:
  - (a) oil extracted from seeds of low THC *Cannabis sativa* if the oil contains not more than 10 mg/kg of total THC;
  - (b) a beverage derived from seeds of low THC *Cannabis sativa* if the beverage contains not more than 0.2 mg/kg of total THC;
  - (c) any other product that is extracted or derived from seeds of low THC *Cannabis sativa* and contains not more than 5 mg/kg of total THC.
- (3) The only cannabinoids in the product must be those that were naturally present in or on the seeds from which the product was extracted or derived.
- (4) In subsection (2):
 

**seeds of low THC *Cannabis sativa*** includes viable and unhulled seeds.
- (5) In this section:
 

**hulled seeds** means seeds from which the outer coat or hull of seeds has been removed.

**low THC *Cannabis sativa*** has the meaning given by subsection (6).

**non-viable seeds** means seeds that are not able to germinate.

**seeds** includes a part of a seed.

**total THC** means the total amount of delta 9-tetrahydrocannabinol and delta 9-tetrahydrocannabinolic acid.
- (6) *Cannabis sativa* is low THC *Cannabis sativa* if the leaves and flowering heads of the *Cannabis sativa* do not contain more than 1% delta 9-tetrahydrocannabinol.

### 1.4.4—7 Restriction on claims and representations about foods that are or which contain hemp food products

- (1) This section applies to a food for sale that consists of, or has as an ingredient, a hemp food product.
- (2) The food for sale must not be labelled or otherwise presented for sale in a form which expressly or by implication suggests that the product has a psychoactive effect.
- (3) The label for the food for sale must not include:
  - (a) a nutrition content claim about cannabidiol; or
  - (b) a \*health claim about cannabidiol; or
  - (c) an image or representation of any part of the *Cannabis sativa* plant

- (including the leaf of that plant) other than the seed; or
- (d) the words 'cannabis', 'marijuana' or words of similar meaning.
- (4) The label for the food for sale may include the word 'hemp'.
- (5) In this section:

**Hemp food product** means *Cannabis sativa* seeds and/or a seed product that are permitted by section 1.4.4—6 to be a food for sale or used as an ingredient in a food for sale.

**Psychoactive effect** means:

- (a) stimulation or depression of a person's central nervous system, resulting in hallucinations or in a significant disturbance in, or significant change to, motor function, thinking, behaviour, perception, awareness or mood; or
- (b) causing a state of dependence, including physical or psychological addiction.

#### **1.4.4—8                    Level of cannabidiol in food for sale**

Cannabidiol must not be present in any food for sale at a level greater than 75 mg/kg.

**ENDS**