

Supporting Document 4

Food Standards Australia New Zealand assessment of hemp foods

Request for information

Food Standards Australia New Zealand (FSANZ) is a bi-national scientific government agency responsible for setting food standards in Australia and New Zealand. All foods sold in Australia and New Zealand must comply with these food standards.

FSANZ is currently assessing an application to approve the sale of foods derived from low THC¹ industrial hemp (hemp foods) in Australia and New Zealand. Industrial hemp is a low THC variety of *Cannabis sativa*. At present, industrial hemp cannot be used in food in Australia and New Zealand².

FSANZ has not identified any safety concerns associated with the consumption of hemp foods. However, there are potential impacts that a recommendation to approve the use of hemp foods could have on industry, the community and government in Australia and New Zealand. As part of its assessment, FSANZ must consider these potential impacts.

FSANZ notes that hemp foods have been legally sold in many countries for some time. FSANZ seeks a greater understanding of how a number of potential impacts may have been addressed in countries where the sale and consumption of hemp foods is permitted. FSANZ requests any information you may be able to provide on the issues outlined below.

A number of questions have been included below to provide an indication of the type of information that FSANZ believes would be of value in its assessment. The FSANZ assessment will also include an estimate of costs associated with the potential impacts highlighted below. In particular, FSANZ would appreciate an understanding of any costs associated with administering, implementing and enforcing any requirements in relation to the sale of hemp food products in your country.

If you can provide information in response to this request, please provide details of your organisation and an individual contact before the end of September 2011. FSANZ is prepared to follow up directly with relevant contacts if you would prefer to discuss the detail of this request further, including information on costings. Please contact Mr Jonathon Kite at FSANZ if you would like additional detail and if you can provide additional information on costings (jonathon.kite@foodstandards.gov.au or +61 2 6271 2646).

FSANZ released a Consultation Paper on this topic in March 2011 and received many public submissions in response. The Consultation Paper includes more detail on some of the issues described below. The Consultation Paper is available on the FSANZ [website](#).

¹ THC is delta 9-tetrahydrocannabinol and is the compound responsible for the psychoactive properties of marijuana.

² An exception is made for hempseed oil in New Zealand, which is permitted to be sold as a food under the *New Zealand Food (Safety) Regulations, 2002*.

Preliminary questions

FSANZ is hoping to gain a greater understanding of the international regulation of hemp foods. Before highlighting particular issues below, FSANZ has included some preliminary questions on the regulation of hemp foods in your country.

Questions:

Are hemp foods permitted to be sold and consumed in your country? If so, are there any restrictions on the type of hemp foods that are permitted?

Are there any special restrictions or requirements associated with the sale of hemp foods (for example, certification, licensing, maximum limits for THC in foods)?

Issues

1. Human drug testing

The potential for the consumption of hemp foods to impact on the results of human drug testing for THC (from illicit cannabis use) is an issue that has been identified by law enforcement agencies. Roadside drug testing for driver impairment has been identified as a particular area of concern in this regard (saliva tests). Drug testing may also be undertaken in some workplaces and is a regular occurrence for elite sportspersons.

There is some concern that consumption of hemp foods may result in more false positive test results (for THC), which will require additional confirmatory testing to be undertaken.

Questions:

Are you aware of any positive THC drug test results that were attributed to consumption of hemp foods? If so, please provide details of foods consumed, the levels reported and the test methodology.

Are you aware of any studies on THC drug testing in relation to consumption of hemp foods? If so, please provide references or other details.

2. Risk of high THC varieties entering the food supply

There is a potential risk that high THC varieties of *Cannabis* could enter the food supply if hemp foods are approved. If the prohibition on use of *Cannabis* species in food is removed as a result of this application, FSANZ has considered setting maximum THC limits for foods derived from *Cannabis*.

FSANZ notes that many countries do not prescribe maximum THC limits for hemp foods. Australian and New Zealand food enforcement agencies have indicated that there may be an expectation that they will closely monitor THC levels in hemp foods. This would involve testing of hemp food products, which is likely to increase enforcement costs.

Questions:

Do you test hemp food products for THC content, either routinely or on a case by case basis?

Are you aware of high THC varieties of Cannabis entering the foods supply in your country? If so, please provide details.

Are there controls on imported hemp food products before they enter your country? If so, could you provide details?

3. Distinguishing hemp seeds from marijuana seeds

Some government submitters highlighted concerns relating to the availability of whole hemp seeds for sale and consumption. It is not possible to identify differences between these seeds upon observation. This identification issue may pose problems for law enforcement agencies attempting to enforce controlled substances and misuse of drugs laws (such as possession of illicit cannabis seeds). Rendering hemp seeds non-viable was highlighted as a potential mitigating factor.

Industry and private submitters highlighted the legal availability of whole hemp seeds for sale and consumption in other parts of the world and the apparent lack of problems associated with such availability.

Some countries require hemp seed to be rendered non-viable before it is sold or imported/exported.

Questions:

Are there any controls in place to regulate or limit the availability of whole hemp seeds as food in your country? If so, could you provide a summary of these controls?

Please comment on any regulatory issues associated with the availability of whole hemp seeds as food in your country?

4. Consumer perceptions and product representations

Some stakeholders are concerned that consumers may consider illicit cannabis use more acceptable if hemp foods were legally available for consumption.

Industry and private submissions to FSANZ highlighted that this concern relies on the assumption that consumers will not be able to distinguish between legal hemp foods and illicit cannabis. These submissions also noted that hemp foods in international markets are marketed as health foods and do not make reference to the drug properties of illicit cannabis.

Question:

Do you have evidence that the legal availability of hemp foods has had any impact on illicit cannabis use (either positive or negative impact)?

Some stakeholders have previously indicated concerns that consumers may believe low THC hemp foods have psychoactive effects and that representations made on low THC hemp foods may mislead consumers by leading them to believe that these foods have psychoactive effects when consumed.

Industry stakeholders note that some consumers are unsure if there is a connection between hemp products and psychoactive effects. However, this uncertainty is considered to be quite

different to actually believing that the use or consumption of hemp products will result in psychoactive effects. These stakeholders consider that simple education messages that highlight the differences between hemp and illicit cannabis would address this issue. These stakeholders also note the apparent lack of concern over these issues in countries where hemp foods are permitted to be sold and consumed. Submitters highlighted the international marketing of hemp foods is based on the nutritional profile of the products rather than any potential link with other cannabis uses.

Question:

Have you experienced any problems relating to the marketing of hemp foods, particularly in relation to the promotion of potential drug-like effects? If so, could you provide examples?

5. Enforcement and compliance of hemp foods

Some of the enforcement agencies in Australia and New Zealand are concerned that additional regulations and compliance and enforcement action may be required if hemp foods are approved. There may be an expectation that hemp foods would be more tightly regulated than other foods and that a greater level of scrutiny is applied to compliance and enforcement than for other foods. This would have high cost implications for government enforcement agencies.

Questions:

In your country, are there existing regulations and procedures relating to compliance and enforcement of hemp foods (for example, licensing, reporting, monitoring)?

Are there any legal requirements for hemp foods that differ from those for other foods? If so, could you provide details?

If hemp fibre production and hemp based animal feed is allowed in your country, what are the additional costs arising from food use?

Could you provide a contact person for specific questions regarding enforcement and compliance costs for governments?

If you have any further information that you believe may be relevant to FSANZ's consideration of the approval of hemp foods, please do not hesitate to include it in response to this request.