

**BELOW IS THE RECENT SUMMARY ISSUED BY THE COMMONWEALTH HEADS OF GOVERNMENT MEETING
ABOUT HEMP FOOD.
THE COMMENTS UNDERLINED ARE ADDED BY THE INDUSTRIAL HEMP ASSOCIATION OF VICTORIA**

Legislative and Governance Forum on Food Regulation (FoFR)

convening as the Australia and New Zealand Food Regulation Ministerial Council

7 DECEMBER 2012

FOOD MINISTERS REQUEST A REVIEW OF A1039 – LOW THC HEMP AS A FOOD

The Legislative and Governance Forum on Food Regulation (Forum), convening as the Australia and New Zealand Food Regulation Ministerial Council, has requested that Food Standards Australia New Zealand (FSANZ) review the draft variation to *Standard 1.4.4* resulting from Application A1039 – Low THC Hemp as a Food. Food Ministers have agreed to seek the advice of the Standing Council on Police and Emergency Services in relation to law enforcement issues by mid-2013. The Forum has also requested that the Food Regulation Standing Committee explore the potential issues related to the marketing of food containing low THC hemp. The Forum has clearly not reviewed the submissions in detail. There has been no substantive evidence presented that shows there would be additional law enforcement issues if hemp food is approved.

The Forum has requested the review of the draft variation under the following criteria:

It does not protect public health and safety

Food Ministers are concerned that the use of low THC hemp in food may undermine drug reduction strategies by contributing to a public perception that low levels of cannabis are acceptable and safe to consume. Health Ministers are regularly putting forward ways that the public can improve their health. A proper intake of balanced omegas and other nutrients contained in hemp seeds is a proven way of enhancing a proper diet, thus improving general health. FSANZ has stated categorically, on a number of occasions, that hemp seed is a beneficial food. Health Ministers have not provided a scientific or technical research basis for their concern. In relation to drug policing, hemp can currently only be grown under licence, enforced by the States. It must only contain traces of THC, to a specified maximum level. The legislation for this is already in place. The levels of THC recommended by FSANZ are proven internationally to be safe to consume. Once again, Health Ministers have no scientific or research basis for their stance. The Forum does not appear to have properly reviewed the evidence presented.

In addition, permitting small quantities of THC, an otherwise prohibited substance, in foodstuffs complicates and introduces a level of doubt into roadside drug testing, which is a road safety measure aimed at preventing persons under the influence of intoxicating substances from endangering the safety of themselves and other road users. THC is not a prohibited substance - it can be prescribed by medical practitioners. Any roadside drug testing that reveals a positive for THC will not be affected by the approval of hemp food. If a driver tests positive for THC, that THC can only have come from sources other than hemp seed or by eating a physically impossible volume of hemp seed. There is no evidence that there are additional law enforcement issues in the United States, United Kingdom, France, Germany, or any other nation where hemp food has been legal for a number of years. Furthermore, consumption of marijuana in those countries has not increased since legalising hemp food. The Forum members do not appear to have apprised themselves of the many studies provided in the FSANZ submission process. FSANZ requested supporting evidence in submissions. No police authority has provided evidence during this process to support the premise that hemp food will encourage marijuana use or that drug testing will return false positives.

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It is difficult to enforce and comply with in both practical and resource terms

Food Ministers are concerned about the implications for law enforcement in Australia, particularly the potential issues with distinguishing between high and low THC varieties of cannabis. The variation to *Standard 1.4.4* would generate an additional burden for regulatory agencies in distinguishing between hemp products containing high and low levels of THC. This burden has not been included in the Assessment Report. The so-called “burden” is non-existent because the States already have policing procedures and protocols in place for the licensing and growing of hemp. By the time the seed reaches the food market, there will already have been rigorous testing and enforcement under existing State legislation. Any traces of THC in the end product are negligible; FSANZ has assessed the danger and found none. FSANZ is not recommending whole seeds be sold as food, thus avoiding perceived danger of unauthorised cultivation. The introduction of hemp foods has the potential to create a lucrative and beneficial industry for licensed hemp growers. These growers will want to ensure the integrity of their crop and not jeopardise their ongoing business - a simple licence check, under current licensing requirements, is an easy step to take to determine the legitimacy of the crop.

The consumption of low THC hemp foods may also result in detectable THC residues and may make law enforcement activities relating to illicit drug more complex. The Assessment Report does not clearly establish that low THC hemp food products would not affect oral and urine drug testing. For example, enforcement of roadside drug testing would be compromised due to uncertainty about interference with oral fluid drug testing and whether the consumption of hemp foods, with low levels of THC, will produce a positive result or false positive. Evidence from a peer-reviewed study would be necessary in order to determine the impact of low THC hemp foods on roadside drug testing – especially as there is currently no agreed testing method to determine THC intoxication. This raises further concerns about the significant burden that may be placed on law enforcement agencies and the judicial system, where false positive results would require additional testing and potentially court action. There is also the potential for the consumption of low THC hemp foods to be used as a legal defence against a positive THC oral fluid test result. There has been no issue worldwide with roadside drug testing being impacted upon by hemp food consumption. Hemp foods are legal in the USA, Canada, France, Germany, The Netherlands and the United Kingdom to name just a few. Those countries are all signatories to the United Nations Single Convention on Narcotics 1961. They all use modern roadside drug tests. Again, the Forum does not appear to have considered the evidence.

Food Ministers are also concerned about the consistency of the proposed variation to *Standard 1.4.4* with the international drug control conventions. It is considered that a variation to *Standard 1.4.4* to permit the use of products from cannabis with a quantifiable level of THC would be inconsistent with overarching restrictions that apply under the *Single Convention on Narcotic Drugs, 1961* and the *Convention on Psychotropic Substances, 1971*, to which Australia is a signatory. Under these conventions, Australian border control legislation, specifically the *Customs (Prohibited Imports) Regulation 1956* and *Customs (Prohibited Exports) Regulations 1958*, limits the import and export of both cannabis and THC to medical and scientific use only. In addition, the approval of this standard will put the Food Standards Code in direct conflict with legislation in a number of states and territories. The United Nations Single Convention on Narcotics specifically excludes hemp from its definition of prohibited Cannabis, viz:

“Article 28. CONTROL OF CANNABIS

....2. This Convention shall not apply to the cultivation of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes....”

FSANZ has until 31 October 2013 to review the draft standard and re-affirm, re-affirm with amendments, or withdraw its approval of the draft variation to the Standard. Ministers will consider the Review at their meeting in December 2013. Under the normal guidelines for reviews, FSANZ would have three months within which to re-affirm the draft standard. FSANZ has already presided over three rounds of public consultation representing three years’ work wherein Police Ministers from the States were consulted and were requested to provide substantiation of any objections. No substantiation was given. There is no reason for FSANZ to take more than three months to report back to the Ministers – all the evidence has been reviewed by them and provided already. It is clear the Food Ministers have not reviewed that evidence and have provided nothing to substantiate their concerns. There has been an enormous amount of taxpayer funding involved in assessing two applications for approval of a food that has vitally needed health benefits. This expenditure, together with copious man hours, has been ongoing for almost 15 years and is being delayed once again through misinformation and lack of due diligence in review of the material available.

Approving hemp foods will provide an opportunity for Government to recover the lost time and facilitate growth and expansion of the hemp industry, giving farmers and processors another agricultural product from which to demonstrate Australia’s ability to excel, whilst providing a sustainable alternative to fish oil.