

Standard 1.4.4 Prohibited and restricted plants and fungi

- Note 1** This instrument is a standard under the *Food Standards Australia New Zealand Act 1991* (Cth). The standards together make up the *Australia New Zealand Food Standards Code*. See also section 1.1.1—3.
- Note 2** The provisions of the Code that apply in New Zealand are incorporated in, or adopted under, the *Food Act 2014* (NZ). See also section 1.1.1—3.
- Note 3** Paragraphs 1.1.1—10(5)(a) and (6)(e) provide that a food for sale must not consist of, or have as an ingredient or a component, a prohibited or restricted plant or fungus, or coca bush, unless expressly permitted by this Code. This Standard contains the relevant permissions.

1.4.4—1 Name

This Standard is *Australia New Zealand Food Standards Code – Standard 1.4.4 – Prohibited and restricted plants and fungi*.

Note Commencement:
This Standard commences on 1 March 2016, being the date specified as the commencement date in notices in the *Gazette* and the *New Zealand Gazette* under section 92 of the *Food Standards Australia New Zealand Act 1991* (Cth). See also section 93 of that Act.

1.4.4—2 Definitions

Note 1 In this Code (see sections 1.1.2—2 and 1.1.2—3):

claim means an express or implied statement, representation, design or information in relation to a food or a property of food which is not mandatory in this Code

coca bush means:

- (a) *Eurythroxylum coca*; or
- (b) a substance derived from *Eurythroxylum coca*.

health claim means a claim which states, suggests or implies that a food or a property of food has, or may have, a health effect

health effect means an effect on the human body, including an effect on one or more of the following:

- (a) a biochemical process or outcome;
- (b) a physiological process or outcome;
- (c) a functional process or outcome;
- (d) growth and development;
- (e) physical performance;
- (f) mental performance;
- (g) a disease, disorder or condition.

label, in relation to a food being sold, means any tag, brand, mark or statement in writing or any representation or design or descriptive matter that:

- (a) is attached to the food or is a part of or attached to its packaging; or
- (b) accompanies and is provided to the purchaser with the food; or
- (c) is displayed in connection with the food when it is sold.

prohibited plant or fungus means:

- (a) a plant or fungus listed in Schedule 23; or
- (b) a part or a derivative of such a plant or fungus; or
- (c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

property of food means a component, ingredient, constituent or other feature of food.

restricted plant or fungus means:

- (a) a plant or fungus listed in Schedule 24; or
- (b) a part or a derivative of such a plant or fungus; or
- (c) a substance derived from a plant, fungus, part or derivative referred to in paragraph (a) or (b).

Note 2 Section 1.1.2—9 (Definition of **nutrition content claim**) provides as follows:

(1) In this Code:

nutrition content claim means a claim that:

- (a) is about:
 - (i) the presence or absence of any of the following:
 - (A) a biologically active substance;
 - (B) dietary fibre;

- (C) energy;
- (D) minerals;
- (E) potassium;
- (F) protein;
- (G) carbohydrate;
- (H) fat;
- (I) the components of any one of protein, carbohydrate or fat;
- (J) salt;
- (K) sodium;
- (L) vitamins; or
- (ii) glycaemic index or glycaemic load; and
- (b) does not refer to the presence or absence of alcohol; and
- (c) is not a health claim.

Note See also subsections 1.1.2—9(2) to (4), 2.6.2—5(4) and 2.10.2—8(3).

Note 3 Standard 1.2.7 prescribes requirements for making health claims and nutrition content claims.

1.4.4—3 Exception to prohibition relating to restricted plants and fungi

A restricted plant or fungus may be used as an ingredient in a food only if it complies with the requirements for natural toxicants in section 1.4.1—3 and subsection S19—6(1).

1.4.4—4 Exception relating to coca bush

Coca bush may be used as an ingredient in a food if the cocaine has been removed.

1.4.4—5 Exception relating to raw apricot kernels

Raw apricot kernels may be used as an ingredient in a food for sale if the kernels have been or will be subject to processing or a treatment that renders them safe for human consumption.

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.

Amendment History

The Amendment History provides information about each amendment to the Standard. The information includes commencement or cessation information for relevant amendments.

These amendments are made under section 92 of the *Food Standards Australia New Zealand Act 1991* unless otherwise indicated. Amendments do not have a specific date for cessation unless indicated as such.

About this compilation

This is a compilation No. 2 of Standard 1.4.4 as in force on **12 November 2017** (up to Amendment No. 169). It includes any commenced amendment affecting the compilation to that date.

Prepared by Food Standards Australia New Zealand on **12 November 2017**.

Uncommenced amendments or provisions ceasing to have effect

To assist stakeholders, the effect of any uncommenced amendments or provisions which will cease to have effect, may be reflected in the Standard as shaded boxed text with the relevant commencement or cessation date. These amendments will be reflected in a compilation registered on the Federal Register of Legislation including or omitting those amendments and provided in the Amendment History once the date is passed.

The following abbreviations may be used in the table below:

ad = added or inserted

am = amended

exp = expired or ceased to have effect

rep = repealed

rs = repealed and substituted

Standard 1.4.4 was published in the Food Standards Gazette No. FSC96 on 10 April 2015 as part of Amendment 154 (F2015L00416 — 31 March 2015) and has since been amended as follows:

Section affected	A'ment No.	FRL registration Gazette	Commencement (Cessation)	How affected	Description of amendment
Note 1.4.4—2	169	F2017L0499 4 May 2017 FSC111 11 May 2017	12 Nov 2017	rs	Note replaced with Notes 1, 2 and 3
1.4.4—5	159	F2015L01913 2 Dec 2015 FSC101 7 Dec 2015	1 March 2016	ad	Section relating to raw apricot kernels.
1.4.4—6	169	F2017L0499 4 May 2017 FSC111 11 May 2017	12 Nov 2017	ad	Section relating to exception for <i>Cannabis sativa</i> seeds and seed products.
1.4.4—7	169	F2017L0499 4 May 2017 FSC111 11 May 2017	12 Nov 2017	ad	Section relating to restrictions on claims and representations about foods that are or which contain hemp food products.
1.4.4—8	169	F2017L0499 4 May 2017 FSC111 11 May 2017	12 Nov 2017	ad	Section relating to restrictions on claims and representations about foods that are or which contain hemp food products.