

Explanatory Statement

Standard 4.2.6 – Production and Processing Standard for Seed Sprouts

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the Act) provides that the functions of Food Standards Australia New Zealand (FSANZ) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 2 of Part 3 of the Act specifies that FSANZ may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

FSANZ prepared Proposal P1004 to develop food regulatory measures for seed sprouts. FSANZ considered Proposal P1004 in accordance with Division 2 of Part 3 and approved Standard 4.2.6. FSANZ notified the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) of the approval.

Following consideration by Ministerial Council, section 92 of the Act stipulates that FSANZ must publish a notice about the draft standard or draft variation of a standard.

Section 94 of the 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 section 42 and Part 6 of the *Legislative Instruments Act 2003* do not apply to the standard or variation.

2. Purpose and Operation

FSANZ approved Standard 4.2.6 to minimise potential food safety risks and to reduce the incidence of foodborne illness from the consumption of seed sprouts.

Seed sprouts contaminated by pathogenic microorganisms present an unacceptable health risk to consumers. In recent years, outbreaks of foodborne illness have been associated with the consumption of seed sprouts both in Australia and overseas.

The food regulatory measures in Standard 4.2.6, along with existing measures in the Code, address the public health and safety problem identified with seed sprouts in the most cost effective manner.

3. Documents incorporated by reference

The food regulatory measures do not incorporate any documents by reference.

4. Consultation

In accordance with the procedure in Division 2 of Part 3 of the Act, the FSANZ consideration of Proposal P1004 included two public consultation periods, following 1st Assessment and 2nd Assessment. The 1st Assessment Report for P1004 was released for public comment in July 2009 for a consultation period of 7 weeks. The 2nd Assessment Report for P1004 was released for public comment in September 2010 for a consultation period of 6 weeks. FSANZ has had regard to all submissions.

A Standard Development Committee (SDC) was established with representatives from the industry sector, the relevant State and Territory government agencies and consumer organisations to provide ongoing advice to FSANZ throughout the standard development process. The SDC contributed a broad spectrum of knowledge and expertise covering industry, government, research and consumers

A Regulation Impact Statement (RIS) was prepared and is available on the FSANZ website. The RIS complies with the Council of Australian Governments (COAG) endorsed **Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies**, released in October 2007 (OBPR ID 10351).

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 97 of the FSANZ Act.

6. Variations

Standard 4.2.6 is a new Standard to be incorporated into the Code. The purpose of each clause is explained below

Clause 1 contains the definitions for this Standard. The purpose of subclause (1) is to apply the definitions in Chapter 3 (the Food Safety Standards), unless there is a definition in Standard 4.1.1 or Standard 4.2.6. Subclause (2) contains a number of definitions for words used in this Standard. **Seed sprouts** are defined as sprouted seeds or sprouted beans for human consumption that include all or part of the seed. The intent of this definition is to limit the seed sprout processors that are required to comply with the standard to those that produce alfalfa, mung bean, broccoli, radish, onion or any other type of sprout that includes the seed or part of the seed in the final product. The definition does not include microgreens or snow peas.

Clause 2 makes it clear that the Standard does not apply to retail sale activities of a sprout processor. Chapter 3 would already apply to these activities.

Clause 3 requires a sprout processor to comply with Standards 3.2.2 and 3.2.3 in Chapter 3.

Clause 4 sets out the activities which make a business a sprout processor. The definition includes producing seed sprouts as well as a range of other activities related to producing seed sprouts.

Clause 5 requires a sprout processor to comply with the general food safety management requirements in Standard 4.1.1. Clauses 4 and 5 of Standard 4.1.1 set out the elements a sprout processor must develop and incorporate into a food safety management statement. This statement becomes the vehicle whereby sprout processors demonstrate compliance with the elements of the Standard. The sprout processor will need to prepare a food safety management statement setting out how the requirements in Chapter 4 of the Code are being complied with. In accordance with clause 5 of Standard 4.1.1, this statement must be approved or endorsed by the authorities.

The clause 6 intent is to require a sprout processor to source seed that is acceptable for producing seed sprouts. The sprout processor must implement control measures to ensure that seed is acceptable, including any seed testing programs. The control measures must be validated and verified.

Clause 7 requires a sprout processor to institute measures to prevent the production of unacceptable seed sprouts. When preparing the food safety management statement, processors are required to examine and show how they are managing the inputs into their production and processing practices. For example, how they deal with water that is used to wash seed and irrigate the germinating seeds, including any recycled water.

Clause 8 ensures that seed sprouts are decontaminated before entering the food supply chain. The sprout processor must ensure that the decontamination processes used will reduce the level of pathogenic microorganisms. In addition, by virtue of the requirements in Standard 4.1.1, only approved chemicals may be used to treat seeds prior to germination and the chemical concentration and contact time would need to be effective and verified.

Clause 9 ensures that sprout processors have systems which will enable them to identify the sources of the seed they use for sprouting and the businesses they supply with seed sprouts. This will enable the business to trace seeds and seed sprouts in the event of a food safety problem. The requirement is in addition to the requirement for a recall system in Standard 3.2.2. The requirement applies to those sprout processors that supply seed (e.g. decontaminated seed) to other sprout processors for producing seed sprouts.

Clause 10 prevents the transfer of unacceptable seed sprouts from the sprout processor to other parts of the supply chain, for example, for retail sale or use in catering.