



Project Officer Proposal P1056
Food Standards Australia New Zealand
PO Box 5423
KINGSTON ACT 2604

Dear Sir/Madam

Submission - Proposal P1056 – Review of caffeine permissions

Thank you for the opportunity to comment on the proposal to review permissions for caffeine in sports foods and in the general food supply with consideration to the risk caffeine poses to sensitive sub-populations.

In September 2020 the Department of Agriculture, Fisheries and Forestry (the department) supported the recommendation to review the urgent variation under P1054 and FSANZ's preferred option to amend and/or add to the approved variation that would consider the risk posed by caffeine in the wider food supply to sensitive populations.

On 17 December 2019 the Imported Food Control Order 2019 (the Order) was amended to classify as risk food, food for retail sale in which total caffeine is present at a concentration of 5% or more in solid or semi-solid food, and 1% or more in liquid food. Imports of these products are targeted by a profile (a community protection question) in the Customs' Integrated Cargo System which refers the food to the Imported Food Inspection Scheme (IFIS) for an assessment of documentation and product labelling.

Since implementation, data indicates 207 lines were referred to the IFIS by this profile, of these, 17 lines were failed for containing caffeine in excess of levels permitted. These products were mostly imported from the United States and are described as Caffeine (Dietary Supplement tablets), High stim pre-workout blend dietary supplement (various flavours), and Thermo burn thermo-metabolic enhancer and thermogenic fat burner (powders). The remaining 190 lines were identified as incorrect referrals.

Currently, the department regulates caffeine in food only where it is either expressly permitted or prohibited in the Code by:

- Standard 1.1.1-10(5)(g) – Requirements relating to food for sale
- Standard 1.3.1 - Schedule 15
- Standard 2.6.2 Non-alcoholic beverages and brewed soft drinks
- Standard 2.6.4 Formulated caffeinated beverages



In response to the call for submissions to review permissions under P1056, the department supports FSANZ's preferred option 3:

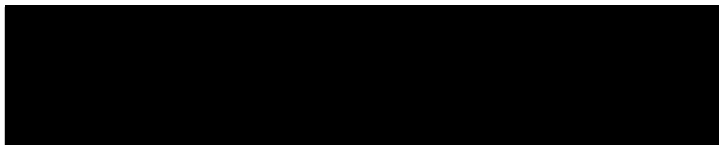
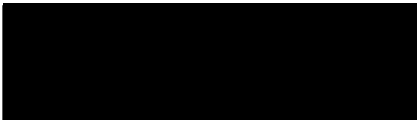
- to explicitly permit in formulated supplementary sports foods (FSSF), total caffeine up to 200 mg in a one-day quantity
- to expressly prohibit the addition of caffeine to other foods for retail sale, other than those that have a specific permission i.e. cola-type drinks and FCBs
- to remove the P1054 variation.

The department supports the proposal to clarify the permissions in the Code for caffeine, with the inclusion of the 200mg limit in FSSF and the express prohibition on the addition of caffeine to all other food, except where there are specific permissions. This will not only simplify labelling inspections and assessments conducted by the department's authorised officers with percentage calculations no longer required, but also provide for easier enforcement of caffeine in food more generally, noting that most imported food is referred to the IFIS at the surveillance rate of 5%, except when it is classified as risk food in the Order.

The department will need to consult with FSANZ on a review of the risk assessment advice provided to the department in December 2019 that resulted in the abovementioned Order amendment. The current risk classification of food for retail sale in which total caffeine is present at a concentration of 5% or more in solid or semi-solid food, and 1% or more in liquid food, will likely need to be revoked following a review of the risk advice provided.

The department also supports the current proposal P1010 to review Standard 2.9.4 and notes the recent call for comment on issues outlined in the consultation paper released on 25 January 2023.

Yours sincerely



13 February 2023