



SUBMISISON

P1044 – PLAIN
ENGLISH ALLERGEN
LABELLING

February 2020



Introduction

The Australian Institute of Food Science and Technology (AIFST) makes this submission in response to the Food Standards Australia New Zealand (FSANZ) consultation on “*Plain English Allergen Labelling (PEAL)*” (P1044, November 2019, [103-19]).

Overall Position

The AIFST notes the purpose of this consultation paper is to consider variations to the Australia New Zealand Food Standards Code (the Code) to make allergen information clearer and more consistent for consumers particularly through the use of plain English allergen labelling (PEAL) and requirements for the presentation of this information.

AIFST broadly **supports Option 3** to declare allergens using mandatory specified terms in bold font, with additional requirements to declare in the statement of ingredients as well as in a separate allergen summary statement with some modifications which are set out in this submission.

Specific Feedback

Presentation of allergen declarations

The AIFST supports the best practice labelling format that is set out in the Food Industry Guide to Allergen Management and Labelling (2019) which recommends **bolding** of allergenic ingredient and the use of an allergen summary statement using the words “contains”.

FSANZ’s recommendation builds on this industry best practice requiring:

- allergens to be declared in the statement of ingredients using a bold font that provides a distinct contrast to ingredient names, and in a font size no less than that used for other ingredient names, and
- An allergen summary statement is to be provided and displayed in bold font, and:
 - include the prefix ‘Contains’, followed by a list of the allergens present
 - appear directly below and be distinctly separated from the statement of ingredients, and
 - be printed in the same font type and size as declarations in the statement of ingredients.

The AIFST supports FSANZ’s recommendation for the summary statement to be located in close proximity to the statement of ingredients however the specific requirement for this statement to appear directly below the ingredient list may be difficult to achieve on all types of packaging, particularly small packs.



Terminology

The AIFST supports the recommendation by FSANZ to for allergens to be declared using specified terms as set out in the proposed mandatory declarations in S9-3 for required names.

With respect to the mandatory declarations table to subsection S9-3, the AIFST suggests this table is amended to:

- review positioning of fish, crustaceans and molluscs – within closer proximity to each other.
- review positioning of peanut – within closer proximity to tree nut grouping; and
- review Column 2 exemption: for ‘tree nuts’ add ‘other than coconut from the fruit of the palm *Cocos nucifera*’.

In addition, the AIFST notes subsection 1.2.3-4(3) does not appear to have been carried over to the proposed drafting of S9-3 which results in a lack of clarity as to how ‘products of’ or ‘derivatives of’ exempted allergens will be treated.

Declaring fish, crustacea and molluscs

The AIFST supports the FSANZ recommendation not to apply the definition for ‘fish’ in Standard 1.1.2 to the requirements for the declaration of allergens in Standard 1.2.3 and for fish, crustacea and molluscs to be separately declared when they are present in a food for sale.

AIFST notes the dictionary definition of “mollusc” includes snails, slugs, mussels, and octopuses and requests FSANZ consider qualifying the requirement for allergen labelling purposes to exclude terrestrial molluscs.

Declaring tree nuts

The AIFST supports FSANZ’s recommendation that each of the following nine tree nuts implicated in food allergy are to be declared: almond, Brazil nut, cashew, hazelnut, macadamia, pecan, pine nut, pistachio and walnut.

The AIFST supports FSANZ’s recommendation for packaged foods:

- the specific individual tree nuts must be declared in the statement of ingredients, whereas the term ‘tree nut’ must be used in the allergen summary statement.
- when a statement of ingredients is not required to be displayed for the food, the specific individual tree nuts must be declared by name.



Cereal declaration requirements

The AIFST supports FSANZ's recommendation for foods required to bear a label:

- 'wheat' is to be declared in the statement of ingredients and the allergen summary statement when wheat or wheat hybrids are present
- 'barley', 'rye', 'oats' and 'spelt' are to be declared in the statement of ingredients when these cereals or their hybrids are present, and the food contains gluten, and
- 'gluten' is to be declared in the allergen summary statement if gluten from wheat, barley, rye, oats, or spelt, or their hybrids is present.

Generic ingredient names

The AIFST supports FSANZ's recommendation for the Code be amended to:

- remove the generic name 'nuts' and its condition from the table to section S10—2
- remove existing conditions for the generic names 'cereals', 'fats' or 'oils', 'fish' and 'starch' that relate to allergen declarations, and
- add a provision in Standard 1.2.4 to require the use of ingredient names in a statement of ingredients be subject to the allergen declaration requirements of Standard 1.2.3.

Foods not required to bear a label or display a statement of ingredients

The AIFST supports FSANZ's recommendation to apply the requirement to use the mandatory specified terms required for a statement of ingredients (on food required to bear a label) to foods that are:

- not required to bear a label
- exempt from displaying a statement of ingredients, and
- sold to caterers.

List of specified terms

The AIFST supports FSANZ's recommendation to establish a list of specified terms for allergen declarations noting a need for some flexibility of singular and plural terms as appropriate to avoid grammatical inconsistencies.

Implementation - transition periods

The AIFST considers the proposed revisions are quite complex and may be difficult for small to medium businesses and companies based in markets outside of Australia and New Zealand to interpret and implement. The transition period applied to these proposed changes will be important to ensure all businesses have adequate time to make changes across all types of products.



The AIFST agrees in principle with the transition period being a period commencing on the variation's date of commencement and ending 24 months after the date of commencement.

However, the AIFST does not agree with the post-transition period of a 12-month period commencing on the day after the transition period ends.

These changes will impact most of the food and beverage products on offer to consumers directly as well as those used by the food service industry. The impact could be similar to that of the revised Country of Origin labelling requirements introduced by the Australian Competition and Consumer Commission (ACCC).

For products with long shelf lives, it will be impossible to comply with a typical two-year stock-in-trade provision. Further, multiple pending label changes (e.g. Health Star Rating and Added Sugar Labelling), will require a co-ordinated and flexible approach in order to avoid prohibitive cost and complexity.

The AIFST requests a reconsideration of the proposed stock in trade provisions favours the approach of the ACCC where goods manufactured after a specified date are required to be labelled according to the new requirements and stock-in-trade made before this date is not required to comply with the new requirements. This is also the approach that the Therapeutic Goods Administration has taken with implementation of new allergen labelling requirements for therapeutic goods¹

Communication and Education

The AIFST is supportive of a communication strategy to consumers, allergen peak bodies, industry and other stakeholders. It is important that consumers are well informed about the amendments in the draft variation if they are approved, and potential label changes to assist them to make informed choices about the foods they purchase.

The AIFST supports the development of a consumer awareness and education campaign to support the changes and inform consumers.

¹ TGA New labelling requirements. <https://www.tga.gov.au/labelling-changes-information-sponsors>



Questions for submitters

1. What proportion of foods are likely to be affected by the change?

The AIFST does not have any specific information in relation to this question however we would anticipate that the changes will affect most packaged food items.

2. Is there likely to be a material difference in costs between Options 2 and 3? If yes, why?

The AIFST does not have any specific information in relation to this question however we would expect there will be a cost to industry for either of the options proposed.

For both options, the ingredient declaration will require change...

3. Is there likely to be a material difference in the benefit to consumers between Options 2 and 3?

The AIFST is unable to comment on this question.

4. Is Option 2 or 3 sufficient for consumers to make quick and reliable assessments of foods?

5. What would be an appropriate duration of time for stock in trade provisions?

The AIFST recommends a longer stock in trade provision than that proposed by FSANZ and requests consideration of a 24-month stock in trade which would accommodate food products with long shelf lives.

6. Do you expect to have any notification, education, permission, purchasing, record keeping, enforcement, publication and documentation, procedural, delay, labelling or any other costs associated with the proposed changes to the Food Standards Code?

The AIFST notes that industry guidance and supporting tools will need to be reviewed and updated subsequent to the proposed changes being implemented. This would include:

- Food Industry Guide to Allergen Management and Labelling (AFGC and the Allergen Bureau); and
- The AFGC Product Information Form (PIF V6.0) which currently captures allergen information on ingredients and retail ready products.

7. Any views in relation to unintended consequences associated with Option 2 or 3.

The AIFST notes the following areas which may require further consideration:

- Schedule 9 – use of singular or plural terminology
- Compliance with requirements for mandatory statements or words (1.1.1-8) – is a required name a “specific word”?



- Precautionary allergen labelling (PAL) – while this is not within scope for P1044 – it is important to ensure that these recommendations do not create a conflict with the ingredient list or allergen summary statements.
- Application to allergens that are required to be declared in other jurisdictions – to promote consistency in declaration will these be permitted to be bolded as well?
- Treatment of other ingredients that may be of interest to consumers such as quinine that may currently be bolded.
- Definition of mollusc for allergen labelling purposes to exclude terrestrial molluscs.

Conclusion

The AIFST acknowledges that P1044 provides an opportunity to provide to make allergen information clearer and more consistent for consumers through the use of plain English allergen labelling (PEAL) and requirements for the presentation of this information.

Changes must be supported by an education and communication strategy supported by all stakeholders to ensure implementation is uniform across all areas of the food industry (including imported foods) and consumers benefit fully from the changes.

The AIFST is ready to engage with FSANZ further if required.