



February 2021

IMPORTANT UPDATES FOR CONFECTIONERY SECTOR MEMBERS

This member update provides advice on:

- P1044 – Plain English Allergen Labelling

Please share internally with relevant people in your business.

FSANZ Proposal P1044 - Plain English Allergen Labelling (PEAL)

In mid-December 2020, the Food Standards Australia New Zealand (FSANZ) Board approved and notified the Forum on Food Regulation (FoFR) of variations stemming from Proposal P1044 – Plain English Allergen Labelling (PEAL). The Forum has 60 days to either request FSANZ to review the approved standard or inform FSANZ that it does not intend to request a review. The outcome is imminent.

The trigger for these amendments to the Food Standards Code (FSC or the Code) stem from there being 11 known foods and ingredients that can cause severe allergic and other adverse reactions in some people, including anaphylaxis. Although the Code requires these substances to be declared on labels when they are present in food, there are no clear requirements on how such declarations must be made. Proposal P1044 aims to remove confusion and uncertainty, for consumers and food businesses, and to improve the public health and safety protection of food-allergic consumers, by making allergen labelling clearer and more consistent.

FSANZ's draft variation primarily amends Standard 1.2.3 and Schedule 9 of the Code. Once approved the draft variation also includes related amendments to Standards 1.1.1, 1.1.2, 1.2.4 and 2.9.5; and Schedule 10.

The variations go as far as to specify mandatory terminology, ie 'required names' to be used when making allergen declarations; location on pack and formatting.

FoFR first initiated the allergen review in 2010. It has been a complex body of work culminating in a second call for public comment on proposed changes between November 2019 and February 2020 and a further targeted stakeholder consultation during August of last year. The Ai Group Confectionery Sector has contributed through the process. For background, a copy of our submission at the second round of consultation may be found [here](#).

Excluded from the scope of P1044 was assessment of new allergens requiring declaration, and exemptions from existing requirements to declare allergens. Issues relating to the unintended presence of food allergens such as the use of precautionary allergen labelling (PAL) statements, eg 'May be present: allergen x, allergen y...' have also not been included in the scope of the proposal.

It is anticipated (subject to FoFR consideration) that the PEAL changes to the Code will be gazetted within the first quarter of 2021.

The industry resource – the *Food Industry Guide to Allergen Management and Labelling* – is currently being updated and is due for release in Q2 2021. Industry best practice with regard to PAL is being considered in the context of PEAL changes, and will be updated in the *Food Industry Guide*. The 2019 version is available [here](#).

You may access the full copy of the approval report via the link to Notification Circular [145-20](#) or [here](#).

Key changes

Please note: This is a summary article and must be read with the finalised variation when in the Code. Revised FSC section 1.2.3 – 4 will be the main provision relating to mandatory declarations. Foods or their derivatives that must be declared are listed in Schedule 9.

Proposal P1044 requires mandatory food allergen declarations to be clearer, more consistent and in plain English. As such, FSANZ has recommended a regulatory response (Option 3) that declares businesses must state allergens using **mandatory specified terms** in **bold font**, with additional requirements to display them in the **statement of ingredients** as well as in a co-located, **separate allergen summary statement**.

The requirements apply, as previously, if the allergenic substance is present in a food for sale as an ‘ingredient’ or an ‘ingredient of a compound ingredient’, a ‘food additive’ or ‘component of a food additive’ or a substance ‘used as a processing aid’ or ‘component of a processing aid’.

In summary, FSANZ’s PEAL amendments to the Code require:

- the use of mandatory specified terms of the allergen source (ie required name) when declaring allergens in food for sale, for example:
 - individual tree nuts: almond, Brazil nut, cashew, hazelnut, macadamia, pecan, pine nut, pistachio and walnut are required to be declared separately in the statement of ingredients and summary statement
 - wheat is the required name in the statement of ingredients and the summary statement when any wheat species or wheat hybrids are present
 - rye, barley and oats are required names in the statement of ingredients when these cereals (or their hybrids) and gluten are present with the use of the required name gluten in the summary statement when gluten from wheat, barley, rye, oats or their hybrids are present
 - synonyms will only be permitted for soy, where ‘soya’ and ‘soybean’ can be used for soy declarations in the statement of ingredients
 - the term ‘processing aid’ (or its plural) is to be listed in the statement of ingredients in conjunction with the allergen it contains or is derived from, eg processing aids (wheat, soy) or processing aid containing wheat, rather than calling out the processing aid by name (which is also likely to be lengthy nor helpful to the allergenic consumer)
- for food required to bear a label, allergens are to be declared:
 - in the **statement of ingredients** separately for each ingredient that is or contains an allergen and also in a separate but **co-located summary statement** beginning with the word ‘**contains**’ and only include the allergens required to be declared;
 - using **bold type** that provides a distinct contrast with any other text; and
 - printed in a **size of type** no less than that used for other text to make declarations easier to identify from surrounding information (general legibility requirements apply)

By separately declaring the source allergen for each ingredient, this means, for example:

- kumut (**wheat**), maltodextrin (**wheat**) but not kumat, maltodextrin (wheat)
- **milk** powder, **sesame** seeds, but not embedded as in buttermilk
- sodium caseinate (**milk**) or sodium caseinate (from **milk**); pasta (**wheat, egg**)

FSANZ has also considered how these requirements will apply to foods not required to bear a label or display a statement of ingredients, foods sold to caterers and special purpose foods.

Implementation

From the date of gazettal of the variation to the Code, there is to be a **three year transition period** followed by a **two year stock-in-trade period**. The transition period will allow relevant food to be sold as long as the food complies with either the existing allergen declaration requirements in the Code, or the amendments arising from Proposal P1044.

A stock-in-trade period will follow, thereby allowing a food packaged and labelled before the end of the transition period to continue to be sold for up to two years after the end of the transition period.

This five year implementation timeframe, was extended from that originally proposed (two year transition and one year stock-in-trade) in response to feedback from the August 2020 targeted consultation. The additional implementation flexibility proposed aims to strike a balance between the industry operating in the current challenging business environment, and the need to implement the PEAL changes in a timely and definitive way to support food allergic consumers to have confidence when making safe food choices. It recognises industry costs and potential wastage, greater alignment with label cycle updates especially for small businesses, the supply pipeline to implement changes to packaging and the complexity of food supply chains, particularly for importers.

Note: this is a summary article and must not be read without the draft variations to the Code arising from Proposal P1044.

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