Allergy & Anaphylaxis Australia

22nd September 2015

Standards Management Officer
Food Standards Australia New Zealand
PO Box 7186
Canberra BC ACT 2610

To whom it may concern:

On behalf of Allergy & Anaphylaxis Australia I wish to make a submission on **Proposal 1031 Allergen Labelling Exemptions**

Background

Allergy & Anaphylaxis Australia (A&AA) is a charitable, non-profit organisation established in 1993 to support and assist those affected by allergy and anaphylaxis. A&AA is dedicated to assisting individuals, their caregivers and all in the community in the management of allergic conditions including food allergy. A&AA's aim is to enable individuals and their families to enjoy an optimum quality of life whilst minimising risk to their health and wellbeing.

A&AA strives to raise awareness of allergy in the community and provides evidence-based information, resources and services to support children and adults living with allergic disease. A&AA has members across all states and territories of Australia. We have a Medical Advisory Board that consists of several allergy specialists who are also members of Australia's peak medical body, ASCIA (Australasian Society of Clinical Immunology and Allergy).

Summary

A&AA strongly supports the activities of the Allergen Bureau and appreciates any steps taken by FSANZ to improve allergen labelling. Nonetheless there is concern that the proposal achieves only minor benefits to allergic consumers, and that the proposed amendments seem ambiguous and may present difficulties with enforcement.

General comments

A&AA notes that this is a proposal raised by FSANZ and not an application from industry or another party, and that the proposal was prepared in conjunction with the Allergen Bureau, which provided a prioritised list of ingredients for consideration. Nonetheless there is no apparent consideration of the other priorities of those afflicted with food allergies, by direct consultation with organisations such as A&AA or by other means. The proposal may well provide a benefit to industry but there is no apparent major benefit to consumers arising from the proposed amendments.

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The proposal notes that "Additionally, Australian and New Zealand industries face market limitations and trade issues that hamper international competiveness, because of exemptions to allergen declarations that are already in place (especially in Europe and North America)." However the exemptions proposed are somewhat less than the EU exemptions, and do not include exemptions such as glucose syrup made from barley. This could expose FSANZ to inferences of facilitating international competitiveness for local industries at the expense of EU industries. This would apply, for example, in the case of EU industries either making glucose syrup from barley, or using such glucose syrup in other products,

The structure of the amendment could exempt the declaration of the proposed exempted foods or substances in toto, including in an ingredient list, or at the least may appear to do so. For example, Standard 1.2.3—4 (1) requires anything listed in that subsection to be declared. Then subsection (b)(i) lists cereals etc and their products "other than (B) glucose syrups…..not exceeding 10mg/kg", thus exempting such glucose syrups from declaration altogether. A&AA assumes this is not the intent of the proposal, and the proposed amendment should be redrafted accordingly to make the intention perfectly clear to businesses endeavouring to comply with the Code.

This proposal also highlights one of the deficiencies in the standard. A declaration of a listed food or substance is required, which list includes for example soybeans and products of soybeans. Thus a declaration of a soybean product, "tocopherol" or "phytosterol", in an ingredient list would seem to comply, without the need to use the qualifier "from soybeans". The same would apply to lecithin, which could be derived from eggs, caseinates derived from milk, glucose syrup derived from wheat or whey. For the average allergic consumer, these may not be obviously derived from any specific source. The diligent may avoid such products unnecessarily, and the unaware may be exposing themselves to a significant risk. Products derived from listed food allergens should be required to declare, unambiguously, the specific source.

A&AA has considered this proposal in the light of ongoing issues resulting from the non-declaration of cows' milk products in imported coconut milk products, the number of recalls involving non-declaration of allergens generally, and the increasing numbers of individuals with significant food allergies. Consequently A&AA is reluctant to support any proposed amendments which would appear to relax in any way industry's obligations to provide full and detailed declaration of the source of each product's ingredients, unless the changes are unambiguous, enforceable and present a clear benefit to both industry and consumers.

Specific comments

soybean oil that has undergone a complete refining treatment

A&AA assumes the intended effect of this amendment is that soybean oil that has been degummed, neutralised, bleached and deodorised could be declared in an ingredient list by the generic name "vegetable oil", or where an ingredient list is not required, not declared at all.

A&AA has grave reservations over this proposal

- It is unclear how it could be enforced
- How is a "complete" refining process to be measured?
- Non-compliance is likely to become evident only when an individual has an allergic reaction

tocopherols and phytosterols derived from the deodoriser distillate of fully refined soybean oil

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A&AA is concerned about the inconsistency between the above heading viz “derived from the deodoriser distillate of fully refined soybean oil” and the actual proposed amendment which simply refers to “soybean derivatives”. Is FSANZ confident that soybean tocopherols and phytosterols can only to be derived from soybean oil deodoriser distillate, rather than from soybeans by other means, both now and in the future?

This proposed amendment highlights one of the deficiencies in the current (new) standard. A declaration of a listed food or substance is required, which list includes soybeans and products of soybeans. Thus a declaration of “tocopherol” or “phytosterol” in an ingredient list would seem to comply, without the need to use the qualifier “from soybeans”. Note from schedule 10 in the case of soybeans, only in the case of oil must the specific source name must be used. The only consequence of this proposed amendment is that where a food is otherwise exempt from ingredient listing or exempt from the need to bear a label, tocopherols and phytosterols derived from the deodoriser distillate of fully refined soybean oil need not be declared at all.

What a proposal such as this should be addressing is clearer labelling of allergens. There are many products of the foods listed in section 1.2.3—4(1) which are not obviously derived from the specific source, for the average allergic customer. Thus where an ingredient such as tocopherol derived from soybeans is present, the standard should be amended to require the specific source name to be declared. Schedule 10 has this requirement for soybean oil, and should extend the requirement not only for soybean products generally, but also for all other foods in section 1.2.3—4(1).

glucose syrup derived from wheat starch

The proposal states that local manufacture is designed to provide <10mg/kg gluten in 100% of samples, and 95% tested are below limit of detection (<3mg/kg). So what levels are present in the other 5%? Does “designed to provide <10mg/kg” translate to “consistently achieve <10mg/kg or is the level of 10mg/kg exceeded in some cases?” And does this also apply to imports of glucose syrup derived from wheat starch and products containing glucose syrup derived from wheat starch?

See also previous comments relating to glucose syrup derived from barley.

alcohol distillate made from wheat or whey

It is not clear what “alcohol distilled from wheat” is meant to encompass. At face value it means pure ethanol derived from a fermented wheat product which seems an unlikely ingredient except in spirits which are exempt from cereal declaration anyway, and in essences which would be present in microscopic amounts in the end product.

The risk assessment looks at some distillates with 95% alcohol, ie not “alcohol” per se but alcohol with 5% something else. The EU refers to distillates or ethyl alcohol which makes more sense, depending on what they mean by distillate. But see p2 of the risk assessment; “There is general scientific agreement that, in a properly controlled process, non-volatile substances such as lactose and proteins from wheat or whey are not found in the distillate.” A&AA takes that to mean lactose and protein may be present in a poorly controlled distillation.

A&AA has no objection to the proposal if the amendment is intended to refer to pure alcohol only. If the intention is instead to encompass distillates generally, ie anything less than 100% ethyl alcohol, the risk assessment would seem to suggest there may be residues in poorly controlled distillation, and thus A&AA could not support this aspect of the proposal.

The risk assessment also makes reference to vinegar made from alcohol distilled from wheat, without making it clear how this is relevant to the proposal. Whilst A&AA would not have any reservations about vinegar made from pure alcohol derived from wheat or whey, there is nothing in the proposed amendments which would seem to exempt such vinegar from declaration. A&AA would appreciate FSANZ clarifying this aspect.

Conclusion

Whilst A&AA could support the proposed amendments if its concerns were fully addressed, A&AA would prefer that FSANZ had directed its resources towards the myriad of unresolved shortcomings already identified in the allergen labelling requirements.

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