



8th September 2014

Allergy & Anaphylaxis Australia (A&AA) wishes to make a submission **Proposal P1025 CODE REVISION**, and specifically on Section 1.2.3—4 Mandatory declaration of certain foods or substances in food, as follows:-

Point 1:- Unlabelled food

Section 1.2.3—4 Noting that the provisions for foods not required to bear a label have been relocated to section 1.2.1—9, a second note at the end of the section would be helpful viz “See section 1.2.1—9 for information requirements for food for sale that does not need to bear a label.”

Businesses in general and small businesses in particular may not be familiar with the entire compass of standard 1.2.1 and may therefore otherwise overlook the provisions of section 1.2.1—9.

Point 2:- Food versus substances.

Section 1.2.3—4. The current standard is much clearer, in that it refers to a **food** (the end product for sale) containing any of the **substances** (from sulphites through to tree nuts) listed.

The draft standard now divides those substances into “foods or substances” for no apparent or helpful reason. According to the relevant State and Territory Food Acts, every substance in draft subsections (1)(a), (b) or (c) is a food. But the draft Code seems to infer that some are foods and some are substances. So for example subsection (2) states “the food may be present as” and then identifies that (2)(b) is a substance, (2)(c) could be either and (2)(a) does not nominate one or the other.

A&AA notes the discussion in the “Call for Submissions” on the definition of “food” and the different New Zealand definition. “Substance” does not appear to be defined elsewhere in the draft Code. However the term clearly includes foods like honey as defined in section 1.1.2, and which is not a food additive, processing aid, contaminant or nutrient, all of which are described as substances elsewhere.

The draft standard in sub-section (1) does not nominate sulphites as either category, and likewise skips over cereals, but nominates (c) as “foods” or “products of those foods”. Why create this complication, what does it achieve beyond uncertainty? Egg is a food? Liquid egg is a substance? Albumen is the white of egg and albumin derived from egg is a protein nutrient, and a substance and a food... Soybeans are a food, but lecithin derived from soybeans, being a food additive is not a food but a substance?

It pays to keep the Code free of such unnecessary complications, both for enforcement purposes, and to facilitate industry’s ability to comply. A&AA notes from the FSANZ “Call for Submissions” paper that the NSW Supreme Court commented critically on the legal efficacy of the Code. In this section (1.2.3—4 sub-section (1)), it would be less ambiguous to have “food for sale” to be required to declare if any of the **substances** listed below are present. This would seem to obviate any argument as to whether the “substances” are foods or non-foods.

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Accordingly A&AA suggests subsection (1) be redrafted as follows:-

(1) For the labelling provisions, if one of the following ~~foods or~~ substances is present in a food for sale in a manner listed in subsection (2), a declaration that the ~~food or~~ substance is present is required:

Point 3:- Cereals containing gluten

The provisions relating to cereals containing gluten have been placed in a separate paragraph (b) under section 1.2.3—4 (1). Section 1.2.3—4 (1) now segregates paragraphs (a) sulphites, paragraph (b) cereals containing gluten and paragraph (c) allergens.

A&AA maintains that this creates potential confusion with respect to wheat allergens, and in support cites the FSANZ position on this matter, as follows.

The FSANZ “Review of the regulatory management of food allergens” acknowledges that the mandatory declaration of gluten containing cereals addresses “two distinct types of immunologically mediated adverse reactions caused by dietary intake of cereals, i.e. coeliac disease, and immunoglobulin (Ig) E-mediated food allergy. The pathogenic mechanisms underlying these types of adverse reactions are different.” See section 5.3 of the review.

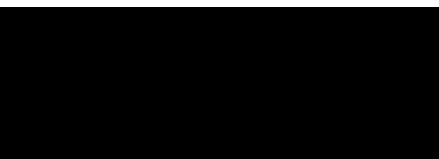
The review goes on to recommend at section 5.3.6 that “FSANZ to consult with allergy experts on the current state of knowledge in relation to wheat allergy, including cross-reactivity with other cereals, and if necessary, develop options to improve the clarity of the declaration requirements in relation to coeliac and wheat allergic patients.”

A&AA submits that the segregation of cereals containing gluten is not only contrary to the established FSANZ position of improving the clarity of these declaration requirements, but also creates potential confusion by inferring that the standard does not address wheat allergens in the same way as other allergens.

A&AA recommends that either the provisions for cereals containing gluten be included in the same paragraph as other allergens, or that wheat be listed along with the other allergens in paragraph (c) of Standard 1.2.3—4 (1).

Thank you for the opportunity to comment on Proposal P1025.

Yours sincerely,



Maria Said

President

Allergy & Anaphylaxis Australia



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