



February 16, 2010

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RE: Consultation on Precautionary Labelling of Food Allergens

The Baking Association of Canada wishes to provide the following comments as part of the development of new policies related to food allergen labelling. The October/2009 consultation document provided by Health Canada outlined a number of options for consideration including:

- Option 1: An Enhanced Voluntary Approach
- Option 2: An Enhanced Voluntary Approach with Consumer Notification
- Option 3: A Mixed Voluntary/Regulatory Approach
- Option 4: A Regulatory Approach

These options were proposed to include a mixture of approaches including:

- developing guidelines for Good Manufacturing Practices (GMPs) on allergen handling;
- developing guidelines to standardize Risk Assessments (using a scientific approach to determine the likelihood of allergen cross-contamination);
- developing guidelines for documenting or recording the findings of all risk assessments;
- developing a limited list of specific wordings that may be used for precautionary labeling statements, when they are being used;
- providing an information and education program for consumers to help them understand the meaning of a precautionary labeling statement on a food product (and what it means when no statement is present); and

- Setting up a system to allow consumers to find out whether a risk assessment has been completed on products that may or may not have any precautionary labeling.

BAC Supports Option 1: Enhanced Voluntary Approach

Precautionary Statements:

In September 2007 Health Canada and the Canadian Food Inspection Agency (CFIA) issued updated advice to the food industry in recommending that only the following allergen precautionary statements be used on food labels:

- "may contain [allergen X]"
- "not suitable for consumption by persons with an allergy to [allergen X]"

BAC supports the continued use of voluntary statements as prescribed by Health Canada and CFIA in 2007. BAC notes that a voluntary approach as is currently used provides greater flexibility by regulators in crafting precautionary statements to meet the needs of allergic consumers than would be so under the laborious regulatory process. However BAC recognizes that the existing system is voluntary and therefore would ask Health Canada to provide an assessment regarding the adoption by industry of the direction provided in 2007. Such an assessment would be essential prior to making any further determination regarding the need to pursue regulatory enforcement of these statements.

We also note that the Federal Government already has legal authority regarding the use of precautionary statements. The Food and Drug Act Section 5 (1) states:

"No person shall label, package, treat, process, sell or advertise any food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety" which therefore provides regulators with means to ensure no misuse of such statements.

Good Manufacturing Practises (GMPs)

BAC has long supported the use of GMPs and other food safety tools such as HACCP or HACCP based systems as a means to address food safety concerns. It is our understanding that GMPs, HACCP or HACCP based systems are already widely used throughout the food industry. In addition to such systems being implemented by proactively by food processors to address food safety concerns the market reality is that many customer groups contractually require food processors to have these systems in order to meet their own quality assurance standards. Recognizing that the market is already "in front" of this issue we are challenged to understand where further benefit would be obtained through regulation. We would however be pleased to discuss existing bakery GMPs with Health Canada to determine if further enhancements may be made.

Risk Assessments

BAC is challenged to understand the value a voluntary/mandatory risk assessment would provide consumers recognizing the nature of allergen use by bakers and their production practises.

BAC has worked extensively in the past with CFIA in reviewing the use of allergen labelling and precautionary allergen statements by Canada's baking industry. It is worth repeating that the baking industry faces unique challenges in addressing the potential for cross contamination of food allergens.

To begin with baked foods are for the most part "living organisms" prior to the actual baking stage. The fermentation of doughs and its inherent "adhesive quality" provides ample opportunity for the doughs to inadvertently adhere to a variety of equipment throughout the process. Complicating the matter is that bakeries also use many different food allergens as ingredients both in the doughs and as toppings (e.g. wheat, milk egg, soy, nuts, tree nuts, sesame seeds etc).

Consumer expectations are also a reality for Canadian bakers. Consumers view baked foods, especially breads and rolls as a low cost, nutritious staple to their diets. Consumers also demand choice and variety in their selection of baked foods. The short shelf life of baked foods also requires bakeries to operate on a virtual 24 hour a day, seven-day a week basis.

In response bakers have undertaken the following to reduce potential cross contamination:

- Where feasible, remove the food allergen(s) from production
- Where feasible, limit new product development from introduction of known allergens.
- Where feasible, relocate/consolidate "like" products to one production facility and/or production line.

However, the ability to relocate production to other facilities is extremely limited as the vast majority of bakeries have only one production facility and the equipment is used to produce multiple products. Furthermore order quantities (which are produced and shipped on a twenty-four hour cycle – seven days a week) and the inherent short shelf life of baking products present challenges in production scheduling.

In addition to production and equipment challenges bakers face further challenges regarding cross contamination and therefore the need for precautionary labelling. Health Canada/CFIA have a long history of declaring zero tolerance (except with sulphites) for the priority allergens when they do not appear on the ingredient label. We would refer to March 5/99 CFIA communication to the Ontario baking industry in response to this long standing position which remains unchanged.

In summary, a zero tolerance requirement for trace amounts of the priority allergens along with the production nature of bakeries suggest there is little value in individual product assessments to qualify for the use of precautionary labelling. Indeed such a requirement may because of its laborious nature and limited resources available within bakeries lead to precautionary statements not being used thereby jeopardizing the health of allergic consumers.

Consumer Notification System

To have credibility with consumers, any notification system must meet stringent criteria, be timely and be enforced. We provide the examples of organic and kosher labelling which have been designed with strict criteria and are regularly monitored. Will Health Canada be able to develop such a system and if so how will it be monitored and where necessary enforced? We believe answers to these questions are necessary before being able to comment further on this section.

Thank you for the opportunity to comment on this important public health initiative. Please do not hesitate to contact us for either clarification or further comments on the above.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Hetherington". The signature is fluid and cursive, with the first name "Paul" being larger and more prominent than the last name "Hetherington".

Paul Hetherington
President & CEO