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For food law enforcement, and port health authorities in England

## **OFFICIAL: Labelling and composition changes in response to supply chain disruption – UPDATE 4**

**Summary:** Potential impacts on food labelling and composition where disruption to food supply chains may occur at short notice.

Dear Colleagues,

The FSA would like to update you following our previous correspondence of [20 May 2022](#), [29 April 2022](#), [14 April 2022](#), and [22 March 2022](#) concerning the reformulation of products due to supply chain issues linked to the current conflict in Ukraine.

This letter provides an update on the products to which our guidance on a proportionate and pragmatic approach to enforcement applies. Specifically the addition in the table at Annex I of the potential for **fully refined corn oil/fully refined maize oil** to be used as a substitute for sunflower oil. Associated risk assessments will be published on food.gov.uk<sup>1</sup> when available.

To support LAs in their discussions with businesses, the FSA has developed a checklist (Annex II) of considerations that should be explored in determining, on a case by case basis, whether a pragmatic and proportionate approach to enforcement is appropriate in any given circumstance. When considering these factors we ask LAs to ensure that the business has provided sufficient information on supporting mitigations and that the business indicates the necessary steps being taken, with timescales, for working towards a return to compliance **as soon as possible**.

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<sup>1</sup> <https://www.food.gov.uk/research/food-allergy-and-intolerance-research>

Please refer to the previous letters for additional guidance and supporting information on the use of a pragmatic and proportionate approach to enforcement.

**It must be emphasised that our guidance on a proportionate and pragmatic approach to enforcement is only relevant in relation to substitutions involving the ingredients specified within Annex I of this letter. It is important that each request is considered on a case-by-case basis for each individual product where the FBO is considering substitution that would result in labelling of the product not being fully compliant. It is also important to stress that the UK has no control over how food labelling changes will be enforced outside the UK.**

We continue to ask that LAs notify us ([Standards.Support@food.gov.uk](mailto:Standards.Support@food.gov.uk)) using the form at [Annex III](#) where they become aware of any supply chain disruption due to the conflict in Ukraine experienced by a business in their area where it results in product reformulation not being reflected on the product packaging.

We will continue to monitor the position in relation to ongoing supply chain disruptions and notify you of any further developments.

Please contact [Standards.Support@food.gov.uk](mailto:Standards.Support@food.gov.uk) if you have any questions.

Yours sincerely

Michael Jackson

Head of Regulatory Compliance

## Annex I

**The table below specifies the proposed substitutions which have been subject to the FSA risk analysis process, and for which the FSA recommends that LAs consider a pragmatic, proportionate approach to enforcement in relation to any associated labelling non-compliance, taking into account the particular facts of the case.**

Ingredient to be Substituted	Substituted with	FSA Risk Assessment Outcome			Other consumer interest considerations
		Frequency of allergic reactions	Severity of illness in relation to allergic reactions	Level of uncertainty	
Sunflower Oil	Refined Rapeseed Oil	Very Low	Negligible	Medium	The presence of genetically modified (GM) refined rapeseed oil should be labelled in line with existing requirements.
Sunflower Oil	Fully Refined Soybean Oil	Negligible	Negligible	Low	The presence of genetically modified (GM) refined soybean oil should be labelled in line with existing requirements.  Potential for sustainability concerns depending on source of soybean oil.
Sunflower Oil	Fully Refined Palm Oil	Very Low	Negligible	Medium	Potential concerns around sustainability depending on source of palm oil and other ethical issues associated with the use/consumption of palm oil.  Nutritional content and wider health profile of palm oil is different and inferior in certain nutrients compared to sunflower oil which may affect the accuracy of nutrition labelling depending on quantities involved.
Sunflower Oil	Fully Refined Coconut Oil	Very Low	Negligible	Medium	Nutritional content and wider health profile of coconut oil is different and inferior in certain nutrients compared to sunflower oil which may affect the accuracy of nutrition labelling depending on quantities involved.
Sunflower Oil	Fully Refined Corn/Maize Oil	Very Low	Negligible	Medium	The nutritional content of corn/maize oil in comparison to sunflower oil is similar in terms of saturated fat. In terms of sustainability, the growing of corn for corn oil production depletes nitrogen and other nutrients from soil and fertilizer and pesticide run-off has the potential to cause water pollution.
Sunflower Lecithin	Alternative lecithins not derived from any of the 14 allergens	Not required due to existing flexibilities in legislation	Not required due to existing flexibilities in legislation	Not required due to existing flexibilities in legislation	The terms 'lecithin' and/or 'E322' may be used without any reference to the origin of the lecithin (with the exception of lecithins derived from allergens listed in Annex II of Retained EU Legislation 1169/2011). This relates to products where 'sunflower lecithin' is specifically stated in the ingredients list on a voluntary basis.

## Annex II

Factors to explore when determining whether enforcement action should be taken on a case-by-case basis:

Factors to consider	Yes/No?	Comments
Can the business re-label immediately to reflect the change in ingredient?		
If they can't re-label, is the reformulation/substitution of the ingredient necessary as a result of exceptional circumstances, and does the need to ensure the supply of food justify the need to reformulate?		
Does the reformulation negatively impact the consumer's ability to make safe and informed food choices, taking into account the risk assessment provided?		
Can the traceability of the food be assured to enable products to be effectively removed from the market if a food safety issue is identified?		
Could the reformulation mislead consumers, or be used to mask fraudulent activity or achieve unfair commercial gain by unscrupulous businesses?		
Could the reformulation unduly mislead consumers as to the nature, substance or quality of the food? For example, is the substituted ingredient likely to be a factor in a consumer's decision to purchase the food, or does the product bear claims promoting healthier nutritional benefits associated with sunflower oil which would no longer be appropriate?		
Has the FBO taken sufficient steps to mitigate the potential risk to consumers as a result of the amendment to the product's composition?		
Has the business taken reasonable steps to ensure that the general requirements relating to the provision of food information to consumers are maintained as far as possible? This includes applying alternative compliant labelling information that reflects the substitution of ingredient(s) as soon as practicable, for example by over-stickering or ink jetting.		
Has the business put in place mechanisms to respond to individual customer enquiries about individual products and batches of these where substitution may have taken place, for example, by publishing these details on its website or putting a system in place to make it available through its customer services mechanisms?		
Is the FBO taking all reasonable steps to re-align labelling of the affected products with the legislative requirements in as short a period as possible?		

**Notification Template**

**Supply chain issues resulting in product reformulation not being reflected on existing packaging**

<b>Reporting Authority Details:</b>	
Local Authority Name & Address:  (Full address required, including postcode)	
Local Authority ID:	
Case Officer Name:	
Case Officer Telephone No:	
Case Officer Email Address:	
Date on which the LA became aware of the reformulation:	

<b>Food Business details:</b>	
Food Business Responsible for Food Information - Name & Address:	
Local Authority Business Unique Reference Number:	
Details of any other known associated food businesses affected:	

<b>Details of any reformulation not reflected on current packaging:</b>	
Please specify details about the required reformulation your LA has become aware of:	
Reason for the Reformulation:	

Scope of the Reformulation:	
Associated Requirements: (Please specify any other conditions which must be fulfilled, e.g. the provision of additional information through the use of a point of sale notice)	
Product/s Affected: (Please include all relevant identifying information, e.g. brand, product name/s, pack size/s, batch code/s, durability date/s)	
Intended Market/s: (Please specify the markets to which the FBO intends to supply the product, including any third countries to which the food will be exported)	
Review Timescale: (Please specify how frequently the LA and FBO will review the validity of this Reformulation)	
Expected End Date: (Please specify when the packaging will reflect the reformulation/the reformulation is expected to cease)	

Signed (on behalf of local authority):

Print Name:

Date:

**Please explain the reasons for collating this information to the food business operator, and confirm that the information will be submitted to the Food Standards Agency and may be published and made available to all local authorities via the FSA Smarter Communications platform.**

**Please email your completed form to [Standards.Support@food.gov.uk](mailto:Standards.Support@food.gov.uk)**