

GM with your Chips?

GM Freeze Briefing on GM Labelling and Traceability

Introduction

This briefing looks at how the GMO Traceability and Labelling Regulation in England, Wales, Scotland and Ireland apply to food sold from catering and fast food establishments. It suggests that the lack of enforcement and information at local level may mean that people are unwittingly buying food prepared with or containing products from GM crops.

GMO Traceability and Labelling Regulations

From 18th April 2004 food and feed containing ingredients produced from genetically modified organisms have been required to be labelled under EU Regulation 1829/2003. The only exemption is if the GM presence is below 0.9% and if the GM presence can be proved to be "adventitious or technically avoidable" (i.e. accidental). To establish whether a GM presence below 0.9% was truly accidental, businesses selling food and feed would need to provide evidence that their product was purchased from a non-GM source and everything possible had been done to avoid GM contamination. Thus ingredients are required by law to be traceable, by means of paper work, back down the supply chain to prove their source of origin was non-GM.

The Regulations apply to all ingredients in food and feed regardless of whether they contain detectable GM materials or not. Thus highly processed ingredients such as vegetable oil, lecithin and starch which should not contain any DNA also have to be labelled on the final product offered for sale. For these types of ingredients, the traceability system is essential so that the products can be traced back to the raw materials from which they were derived and tested for GM presence. If products contain more than one ingredient derived from a GM crop they all have to be labelled on the pack.

Processing aids (e.g. enzymes and yeast) and feed additives (e.g. vitamins) produced from genetically modified microorganisms (GMM) don't have to be labelled. Yeast products added to food, e.g. yeast extract, would have to be labelled if it was produced by a GMMs. GMOs used in alcohol production, e.g. maize grits, also have to be labelled. See table below for comprehensive list of labelling requirements.

Examples of Labelling Requirements Under EC Regulation 1829/2003 for authorised GMOs

GMO-type	Example	Labelling Required
GM plant	Chicory	Yes
GM Seed	Maize seeds, oilseed rape seeds	Yes
GM food	Soya flour	Yes
Food produced from GMOs	Highly refined flour, oil, and starch	Yes
Food from animals fed GM feed	Milk, eggs, meat	No
Food produced with the help of a GM enzyme	Cheese, bakery products using amylase	No
Food additives and flavouring produced from GMOs	Lecithin used in chocolate derived from GM soya	Yes
Feed additive produced from a GMO	Vitamin B2 (riboflavin)	No
GMM used a food ingredient	Yeast extract	Yes
Alcoholic beverage containing GM ingredient	Maize grits	Yes
Products containing GM enzymes where the enzyme is		Yes

acting as an additive or performing a technical function		
GM feed	Maize	Yes
Feed produced from a GMO	Maize gluten, soya meal	Yes
Food containing GM ingredients that are sold in catering establishments		Yes

Adapted from the Food Standards Agency website http://www.food.gov.uk/gmfoods/gm_labelling
GM – genetically modified

GMM – genetically modified micro-organism

Enforcement of the Regulations

Enforcement of the regulations is by local authority trading standards or environmental health departments (it varies depending where you live in the UK). The four nations of the UK all have their own set of Regulations which means that the EU Regulation 1830/2003 can be enforced and companies breaking the law can be prosecuted. A survey of local authorities carried out by GM Freeze in 2005 found that monitoring of imports, animal feed and food on sale was very limited because of lack of staff and money and lack of leadership from the Food Standards Agency¹.

Food Sold by Caterers, Restaurants and Fast Food Outlets

The Food Standards Agency has stated that all food and fed regardless of where it is purchased is subject to the regulations, including that sold by caterers for immediate consumption on the premises or to take-away.

The FSA and Defra guidance note on the regulations Q&A sectionⁱⁱ makes this perfectly clear:

17. What about labelling of foods/ingredients sold to caterers?

Our legal interpretation of the regulation is that food sold to caterers will need to be labelled.

18. Will catering establishments continue to provide labelling information to consumers for foods sold in restaurants, cafes etc?

Article 12 of EC Regulation No 1829/2003 reads 'this section shall apply to foods which are to be delivered as such to the final consumer or mass caterers in the Community'. As mass caterers are delivering to the final consumer then ingredients should be labelled. We are aware there is disagreement between the Council and European Commission as to whether catering establishments are required to provide labelling information to the final consumer. The European Commission is seeking advice from its lawyers and this issue will be discussed further at a future Standing Committee meeting. The FSA's legal view is that labelling is required across EU Member States under EC Regulation 1829/2003.

The FSA confirmed that it is their view that food fried in GM oil does require labelling in a letter to GM Freezeⁱⁱⁱ

"The regulations apply to GM vegetable oils when used for frying or as an ingredient, therefore foods fried in a GM oil should be labelled as such".

Recently the EC issued a report on the implementation of the EU regulations on Traceability and Labelling^{iv}. This appeared to contradict the FSA interpretation by stated (section 11)

Labelling requirements for mass caterers

The labelling requirements of the Regulation are not applicable to food supplied by mass caterers to their customers where such foods have been prepared or processed. They do, however, apply to food which are supplied to mass caterers and which are delivered as such to the final consumer. This interpretation is consistent with the interpretation which has traditionally been given to Article 1(1) of Directive 2000/13/EC, which is written in a similar manner.

However, the FSA has told the Freeze that *"We have sought the views of our legal advisers following the issue of the Commission's report. Their view is that there is nothing in the fact of the publication of this report that necessitates a change in our approach and their view remains unchanged (email dated 17th January 2007)*

The law, of course, needs to be tested in the courts but at present if your chip shop, staff canteen or restaurant is using GM oil and not telling you either on the menu or on the service counter then they are acting illegally.

To sum up - in the FSA's view the GMO Traceability and Labelling Regulations apply to all food from catering, restaurant and fast food establishments down to the squeeze bottle of decanted sauce on the table.

How Should Mass Catering Food Be Labelled?

According the FSA:

Such labelling rules apply at the point of sale to the final consumer or mass caterer (restaurants, hospitals, canteens or similar caterers) to allow consumers/users choice as to whether to purchase foods containing GM ingredients. In the case of non pre-packaged products offered to the final consumer or to mass caterers the above form of words must appear on or in connection with the display of the product.

Labelling should indicate

- *this product contains genetically modified organisms*

or

- *this product contains genetically modified (name of organism).*

"May contain" is not permitted as a GMO label on any product.

In the case of supplier through mass catering establishments or where there is no packaging, labelling using the same form of words *"must appear on or in connection with the display of the product"*. In other words if any GM ingredients are being used there should be a notice either on the tables, on the menu or by the counter where it is clearly visible.

The regulations also require that for GM ingredients in small packs (less than 10 cm²), such as sachets of sauce or mayonnaise, considered to be too small to carry any more consumer information, that notices:

"must be permanently and visibly displayed either on the food display or immediately next to it, or on the packaging material, in a font sufficiently large for it to be easily identified and read".

Thus any GM content, including oil used for frying has to be labelled by means of a clear and visible notice either on the service counter or on the menu.

Eating Out and GM Ingredients

According to Defra statistics people derive around 9% of their food energy from eating out^v. For some people their main way to consume food containing GMOs is when they eat out. The GM imports into the UK are mainly used as animal feed. However, products derived from animal feed production such as soya oil and lecithin (used in chocolate) are creeping into restaurants and other food outlets. Catering size vegetable oil packs labeled as containing oil derived from GM soya have been seen outside establishments. If a business uses GM vegetable oil they should be clear notices in the serving area or on menus. Any other GM ingredient used (see table above) has also to be labelled by mass caterers including works canteens and student refectories.

Every litre of GM oil used support the cultivation of GM crops and all the environmental, health, social and economic problems they can entail.

Warning to Biofuel Users

The user of bio diesel will also need to make sure the fuel that are using is not derived from GM crops if they wish to avoid propping up the biotech industry any more.

Animal Feed

Exactly the same labelling and traceability laws apply to animal feed including the use of derivatives which contain no detectable GM materials such or by accompanying paper work if it has a GM presence in any ingredient above 0.9%. If the level is below 0.9% the labelling exemption only applies if the presence is adventitious or technically unavoidable. If the supplier cannot prove this point the feed would require to be labelled. In the future, this law would apply to GM maize silage if it passed from one farm to another.

Products produced using GM feed (i.e. dairy products meat and eggs) are not required be labelled at present. 87% of the public support such a law^{vi} in the UK. Some companies do label their meat, dairy products and eggs so always ask if you want to avoid animal products from animals and birds fed on GM. Tell the staff /owner that you will shop elsewhere if your retailer does not know if their supply chain uses GM or non-GM feed.

Action on GM Ingredients Used in Catering Establishments

Clear labelling of GM ingredients in catering outlets will alert people to the fact that they are being used. Consumer pressure can then be used to try and persuade the owner to change their purchasing practices.

If you see GM ingredients labelled in your local café, restaurant, pub or fish and chip shop or take away:

- Ask them why they are using GM and inform them that you will take your custom elsewhere

If there are no labels two actions are possible;

- Ask the owner to confirm they are not using any GM ingredients including oil to fry in.
- Contact you local authority and ask them what enforcement action they are taking to ensure the GM labelling regulations are being adhered to. To find out how see the GM Freeze briefing http://www.gmfreeze.org/uploads/tsabd_ehobriefing_sept_2006.pdf

Useful Reading

FSA GM Food Labelling http://www.food.gov.uk/gmfoods/gm_labelling

FSA /Defra Guidance on Regulations 1829/2003 and 1830/2003
<http://www.food.gov.uk/multimedia/pdfs/gmguidance.pdf>

GM Freeze Briefing GMO Traceability and Labelling: Enforcing the Enforcers
http://www.gmfreeze.org/uploads/tsabd_ehobriefing_sept_2006.pdf

GM Freeze Report GM Food and Crops: Maintaining Consumer Choice: A Report on the Enforcement of the EU Traceability and Labelling Regulations
http://www.gmfreeze.org/admin/uploads/report_doc.pdf

GM Freeze January 2006

ⁱ http://www.gmfreeze.org/admin/uploads/report_doc.pdf

ⁱⁱ <http://www.food.gov.uk/multimedia/pdfs/gmguidance.pdf>

ⁱⁱⁱ Letter to GM Freeze from Dr Trudy Netherwood 12th October 2006

^{iv} Report From The Commission to The Council and The European Parliament on the implementation of > Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (COM(2006) 626 final).

^v <http://statistics.defra.gov.uk/esg/statnot/efsuk.pdf>

^{vi} NOP GFK Omnibus interviewed 1000 UK adults aged 16+ over the dates 9th-11th June 2006. Results were weighted in order to be nationally representative. Conducted for FOE and GM Freeze.