USDA United States Department of Agriculture
Foreign Agricultural Service

GAIN Global Agricultural Information Network

Voluntary Report – Voluntary - Public Distribution **Date:** December 26,2019

Report Number: CH2019-0197

Report Name: UPDATE - China Notifies Draft Measures on Supervision and Management of Food Labeling

Country: China - Peoples Republic of

Post: Beijing

Report Category: WTO Notifications

Prepared By: FAS Beijing Staff

Approved By: Michael Ward

Report Highlights:

On December 12, 2019, China notified Food Labeling Supervision and Management Measures (Draft for Comments) to the WTO TBT Committee as G/TBT/N/CHN/1401. Comments can be sent to tbt@customs.gov.cn. The deadline for comment submission is 60 days from notification, i.e. February 10, 2020. China has not announced a proposed date of entry into force for the measures. The same Draft Measures were released by the State Administration of Market Regulation (SAMR) for domestic comments on November 20, 2019. This report contains an unofficial translation of the draft Measures. This GAIN report supersedes GAIN report CH2019-0188.

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY USDA STAFF AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT POLICY

General Information

BEGIN TRANSLATION

Measures on Supervision and Management of Food Labeling

(Draft for Comments)

Chapter I General Provisions

Article 1 To regulate food labeling, strengthen supervision and management of food labeling and protect the legal rights of enterprises and consumers, the Measures are formulated according to laws and regulations including the Food Safety Law of the People's Republic of China and its implementing regulations.

Article 2 The Measures apply to labeling of food produced and distributed within the People's Republic of China and supervision and management of food labeling.

Article 3 Food labeling mentioned in the Measures means the generic term for characters, symbols, numbers, patterns and other descriptions affixed to, printed on, marked on or attached to food or its packages to identify and describe basic information, characteristics or properties of foods. Food labeling includes labels and instructions.

Article 4 The market regulation department of State Council is responsible for guidance on national supervision and management of food labeling.

Local market regulation departments above county level are responsible for supervision and management of food labeling in their own administrative regions.

Chapter II Basic Requirements on Food Labeling

Article 5 Food or its packages shall be labeled, except foods that are exempted from attaching labeling pursuant to laws and administrative regulations.

Food labeling shall be clear, obvious, persistent and easy to distinguish and identify.

Article 6 Fonts and mark colors of food labeling shall show obvious contrast with the background color. The difference between the percentage of light reflected from the underside and the percentage of light

reflected from the print shall be as big as possible; in principle, the difference shall not be lower than 70%.

Article 7 Food name, production date, shelf life, warning signs, warning words or matters needing attention, etc. shall be marked in the obvious positions on food labeling with bigger font or special characters and colors.

Article 8 Food labeling shall not be separated from food or its packages.

Article 9 Food labeling shall be directly labeled on food of the minimum sales unit or on its packages.

Article 10 Where a package contains foods of different varieties and in multiple independent packages and each package can be sold separately, each independent package of food should be labeled following provisions in these Measures.

Where all or part of the compulsory labeling content of the foods in separate packages cannot be distinctly identified through the outer package of sales units, the compulsory labeling content shall be labeled on the outer packages of sales units; where all or part of compulsory marking content of separately packaged food can be distinctly identified through the outer package of sales units, such compulsory content do not need to be labeled on the outer packages repeatedly.

Article 11 Characters used for food labeling shall be normative Chinese characters.

Language of the Chinese minority nations, Chinese phonetic alphabet or foreign languages may be used for food labeling at the same time (with normative Chinese characters), but the (size of the) foreign languages used shall not be bigger than the corresponding Chinese.

Article 12 The units of measurement used for food labeling shall be the legal units of measurement.

Article 13 The characters in the compulsory label on food labeling shall not be less than 1.8 mm in height.

Where the maximum surface area of a food or its package is less than 20 square centimeters, its food labeling may contain only food name, producer name and address, net content, production date and shelf life. However, where laws or administrative regulations require labeling of other content, such provisions should be followed.

Where the maximum surface area of a health food package is less than 10 square centimeters, at least the health food logo, production name, registration number or record filing number, specification, shelf life,

matters needing attention, storage conditions, producer name, production licensing number and production date shall be indicated. At least health food name, net content, production date and producer name shall be indicated on packages of health food not to be sold separately. Where outer packages are easy to open for identification or label of inner packages can be distinctly identified through the outer packages of sales units, corresponding content do not need to be marked on outer packages repeatedly.

Article 14 Imported food shall have Chinese labeling which shall be directly affixed to, printed on or marked on the minimum sales packages during production. It is not allowed to affix Chinese labeling (after production).

Article 15 Where there are no provisions by relevant laws, regulations or food safety standards, food labeling shall not use words of "specially for" or description that emphasize the product is more suitable for special groups, such as infants, children, the aged and pregnant women.

Chapter III Content for Food Labeling

Article 16 The food labeling shall be faithful, accurate, easy to understand, scientific and compliant.

Article 17 Food labeling should indicate name of the food and meet following requirements:

(I) Food name shall show the true properties of food.

(II) Where there are provisions on food names specified in national food safety standards, local food safety standards or other food standards, names specified in relevant standards shall be adopted.

(III) Where "newly created name," "novel name," "transliteration name," "brand name," "regional slang name," or "trademark name" is indicated, the name specified in relevant standards or the name reflecting foods' real properties shall be indicated with the same font size near the said name.

(IV) For foods produced by physically mixing two or more kinds of food materials, and the materials cannot be distinguished by appearance, the product name shall reflect the food's mixture property and classification, and use one or two main materials to name the food.

(V) For food which is made from plants and produced to imitate body, organs or tissues of other organisms, such words as "imitated," "man-made," or "vegetarian" shall be put before the name, and label the food category that reflect the real property of the food.

(VI) Words or phrases reflecting food's real properties, physical state, production method or purpose of use may be added before or after the food name.

(VII) Name of a health food shall be consistent with the name used for registered or record filing, with the same font, color and size.

Article 18 Food labeling should label the ingredients or the list of ingredients.

Ingredients in the list of ingredients shall be indicated in descending order according to the amount added during food production, and the specific marking method is subject to relevant national standards.

For health foods, all raw materials and auxiliary materials shall be listed respectively in an order stated in the registration or record content.

Where edulcorates, preservatives, colorants, emulsifiers and thickeners are directly used in food, their specific names shall be indicated under the item of food additives in the list of ingredients; where other food additives are added, the specific names, types or codes can be indicated. The scope and amount of use of food additives shall follow relevant national standards.

Article 19 For labeling of foods in quantitative packages, the net content shall be marked, and its specification shall be indicated according to relevant provisions. For foods containing both solid and liquid materials, not only the net content but also the leachate (solid materials) content shall be indicated.

The specification of health food is the weight or volume of the minimum preparation unit, and the net content is the weight or volume of the product contained in a sales package.

Net content shall be placed on the same display side of food packages as where product name is placed. Net content shall be marked following provisions in the Measures on Supervision and Management of Measurement of Quantitative Packaged Commodity.

Article 20 Food labeling should indicate the producer's name, address and contact information. The producer's name and address shall be the name and address of the producer which is registered according to law and the producer should be able to undertake product quality liabilities. Contact information shall be truthful and effective.

Food labeling only labels name and address of the company producing the products; the name of the group company can be indicated at the same time.

In one of following circumstances, labeling shall follow the following provisions:

(I) For a company or its subsidiary which independently undertakes legal responsibilities, their own names and addresses shall be indicated respectively.

(II) For a company's subsidiary or production base which cannot independently undertake legal responsibilities, the names and addresses of the company and its subsidiary or production base shall be indicated respectively.

(III) The name and address of the repacking entity shall be indicated for repacked food, and the word "repacked" shall be also be indicated.

(IV) Where food production is entrusted to other entities, the names and addresses for the entrusting party and the entrusted party shall be indicated at the same time.

(V) For imported food, the place of origin and the name, address and contact information of the agent or importer registered within China according to law shall be indicated.

Article 21 Food labeling should indicate the production date and shelf life of food, and the following requirements shall be met:

(I) Food production date and shelf life shall be indicated in the order of year, month and date; use the four digit number for the year, and two digit numbers for the month and date, separately; add "0" before the figure in only one digit; separation symbols including space, oblique line, hyphen and full stop may be used among year, month and date, or no separation is used;

(II) Where the food shelf life is less than 72 hours, the food production date and the quality guarantee period should be labeled to hours, using the 24-hour system for the marking;

(III) The shelf life may also be indicated in a way of "best before **** year ** month ** date" or "shelf life expires on **** year **month**date";

(IV) For an individual food with multiple layers of packages, the date of food-contact packaging should be marked as the date of production on the outer package of the food;

(V) Where there are multiple packages of foods in one food package, the production date is the date the outer package is completed. Shelf life on the outer package should be earliest expiration date of the single packaged food in the package; or the outer package mark the individual food's production date and shelf life, respectively;

(VI) For foods that are repackaged, the production date and shelf life should be the date of the outer package is completed; or label the repacking date as the production date, and label the shelf life of the repacked food;

(VII) Alcoholic beverages with alcohol content of more than 10%, table vinegar, table salt, sugars in solid form and MSG could be exempted from marking of shelf life;

(VIII) For health foods, the production date and shelf life should have obvious contrast with the background where the label locates so they are easy to identify, unless the dates are marked by laser-induced thermal etching; the dates should not be covered by stickers, or by supplementary printing, or be altered; if the dates are labeled as "see xxx (place) of the package", the specific place of the place where the label locates should be accurately provided; shelf life of health food should be labeled as "the shelf life expires on **** year ** month ** date";

(IX) Where catering service providers sell processed foods by displaying the foods in counter, the processing and production date of the displayed foods shall be labeled; the production date shall be labeled to hours, using the 24-hour system.

Article 22 Food labeling should provide the code of the product standard adopted in production.

Code of product standard refers to the codes of national food safety standards, local food safety standards, corporate food safety standards, national food standards, industrial food standards, group foods standards or enterprise food standards adopted.

Labeling of health food should contain the registration number in the health food registration certificate, or the record-filing number.

Article 23 Food labeling should indicate the storage conditions, including "storage in normal temperature", "cold storage" or "frozen storage". Temperature range of specific cold storage and frozen storage shall be indicated for marking of cold storage and frozen storage. Marking of storage conditions shall be subject to specific provisions on food storage conditions specified in food safety standards if any.

Storage conditions and methods including temperature and humidity shall be indicated according to registration or record content for health food.

Article 24 Foods that are subject to food production licensing requirements should label their production licensing certificate numbers. For repacked foods, the production licensing number of the packaging facility shall be labeled; for foods produced on the commission basis, the production licensing number of the commissioned food producer shall be indicated.

Article 25 For main and complementary foods for infants and other special groups, the main nutrients and their contents shall be indicated pursuant to the items and the order provided by relevant national food safety standards.

Article 26 If labeling of a food need to label warning signs, warning words or matters needing attention, such items shall be labeled following provisions in national standards for the food.

(Package of) health foods shall have areas for warning word and warning words. The area for warning words shall locate on the side of the minimum sales package that is easy to see (hereinafter referred to as the main display side); the area should take no less than 20% of the side where it is located. There shall be distinct color difference between the warning words in the area and the background. Warning words shall be printed in bold font and include the following text: health food is not medicine and cannot replace medicine to treat diseases.

When the surface area of the main display side is larger than or equal to 100 square centimeters, height of the font shall not be less than 6.0 millimeters. When the surface area of the main display side is less than 100 square centimeters, the minimum font height varies in the equal proportion according to above provisions.

Article 27 Labeling and instructions of food additives should follow provisions of these Measures and label food additive's name, specification, net content, production date, list of ingredients, producer's name, address and contact information, shelf life, code of product standards, storage conditions, the generic name of food additive in national standards and production licensing number. The scope of use, amount of use and use methods for food additive shall be labeled too; the text "food additive" shall be labeled in an obvious position in the main display side of labels.

Where food additives are used in foods for catering, the food additive's name, applicable scope and amount of use shall be indicated on menus.

Article 28 Production and trading of genetically modified foods should be conspicuously marked pursuant to relevant provisions.

Article 29 Irradiated food shall be labeled according to national food safety standards.

Foods produced of foods, food additives and edible agricultural products that have been treated with irradiation should label the text “treated with irradiation” behind corresponding ingredients in the list of ingredients.

Article 30 Labels and instructions of health foods, food for special medical purpose (FSMP) and infant formula shall comply with relevant laws, regulations, national food safety standards, and administrative measures for product registration and record filing.

Article 31 Labeling of health foods shall also include the following content and comply with relevant requirements:

(I) Functional ingredients/representative ingredients and their content: label the name of functional ingredients/representative ingredients or the content of functional ingredients/representative ingredients in specified unit weight or volume of products;

(II) Health function: functional name for registration and record;

(III) Health food registration or record filing logo: the patterns/symbol for health foods specified by the State Administration for Market Regulation；

(IV) For irradiated food or food using irradiated raw materials or irradiated auxiliary materials: “this product was treated with irradiation” or “xx materials have been treated with irradiation” shall be indicated；

(V) For nutrient supplements, the text “nutrient supplement” shall be indicated, and “supplementing xx nutrient” shall be indicated in the health functions;

(VI) Instructions for use and dosage;

(VII) Suitable groups and unsuitable groups;

(VIII) Matters needing attention, include but not limited to the statement “this product cannot substitute drugs”; for products that only filed for records (with SAMR), the statement “the product is not registered with the market supervision and administration authority.

Article 32 Health food labeling should provide complaint and service telephone numbers and service hours of the numbers. Font and size of the service telephone numbers shall be the same with that of the “health functions”.

Health food producers and operators shall ensure that they will receive and deal with consumers’ query, complaint and reporting during promised service hours; they will document such information relevant service information for at leas 2 years.

Article 33 Instructions and labels of health foods shall be consistent in content; they should be consistent with the health food registration certificate or the record filing documents, if there is any.

Content of instructions shall include product name, raw and auxiliary materials, functional ingredients/representative ingredients and their content, health functions, suitable groups, unsuitable groups, dosage and instructions for use, product specification, shelf life, storage method and matters needing attention.

Where labels have covered all content of the instructions, the instructions do not need to be attached.

Article 34 Health food logo shall meet following requirements:

(I) The health food logo and the registration number or the record filing number shall be labeled on the main display side of the health food package (containers).

(II) The health food logo shall be labeled on the top left side of the main display side in the proportion provided by the State Administration for Market Regulations, and the logo shall be distinct and easy to identify. When the surface area of the main display side is larger than 100 square centimeters, the maximum width of the health food logo shall not be less than 2 centimeters. When the surface area of the main display side is less than or equal to 100 square centimeters, the maximum width of the health food logo shall not be less than 1 centimeter. The registration number or record filing number shall be labeled below the health food logo, connected to the health food logo, and easy to distinguish.

Article 35 Other content required by laws, regulations or food safety standards shall be labeled in food labeling.

Article 36 Selling bulk foods, the food operator should label the food name, production date or product lot number, shelf life, the producer and operator’s names, addresses and contact information on the container and outer packages of the bulk foods.

Article 37 Selling packaged edible agricultural foods, the food operators should label such information as name of the edible agricultural product, place of production, producer and production date; requiring (labeling) the shelf life, the shelf life shall be labeled; where the shelf life is related to storage conditions, the storage condition shall be labeled; where there are applicable classification standards or food additives are used, the food quality grade or the name of the used food additive shall be labeled.

Article 38 Food labeling shall not label the following contents:

(I) Expressing, suggesting or involving functions for disease prevention or treatment;

(II) Non-health food expressing or suggesting health functions;

(III) Describing or introducing foods in a fraudulent or misleading way;

(IV) The attached product instruction could not be verified;

(V) Text or patterns do not respect national customs/traditions or contain discriminatory descriptions;

(VI) Using national flag, national emblem or Renminbi for labeling;

(VII) Using a name that violates moral ethics or generally accepted rules as the food name;

(VIII) Using name of a registered drug as food name;

(IX) Content prohibited by laws, regulations and standards.

Article 39 The following illegal acts of food labeling are forbidden:

(II) Counterfeiting or falsely label production date and shelf life;

(II) Counterfeiting or falsely using other producers' name and address;

(III) Counterfeiting, falsely using or altering production licensing;

(IV) Other acts forbidden by laws and (or) regulations.

Chapter IV Obligations of Producers and Operators

Article 40 Food producers and operators shall be responsible for the content of labels and instructions provided by them.

Health food producers and operators shall be responsible for the legality and truth of the labels and instructions provided by them and ensure that the labels and instructions are consistent with the content of registration or record.

Food and food additives which are not consistent with the content of their labels and instructions shall not be marketed.

Article 41 Food producers and operators shall strengthen food labeling management during self-inspection of food safety and check food labeling regularly. Food labeling problems found in inspection shall be corrected immediately.

Food producers and operators shall store food according to food safety requirements, ensure that food labeling is in good condition, check stock food regularly and clean up spoiled food or food exceeding shelf life in time.

Article 42 When finding food produced or dealt in by them doesn't comply with laws, regulations and food safety standards, food producers and operators shall stop production immediately, and food producers shall recall food which has been marketed. Food which is recalled because of noncompliance with the Measures or food safety standards may be sold again when food producers have taken remedies and can ensure food safety. Alteration or supplement by attaching labels may be adopted for remedies, but the production date and the shelf life shall not be altered.

Article 43 Food producers and operators shall cooperate with market regulation departments in supervision and management of food labeling. Food producers and operators shall correct problems found in supervision and inspection according to requirements.

Article 44 Food producers and operators shall establish consumer complaint acceptance systems, deal with complaints and reporting related to food labeling in time and keep relevant records.

Where product labeling affects food safety and thus leads to loss in consumer health and properties, food producer s and operators shall take on liability to pay compensation according to law.

Chapter V Supervision and Management

Article 45 When conducting supervision and inspection of food safety, market regulation departments shall put emphasis on following items:

(I) marking of production date and shelf life of food;

(II) marking of main nutrient ingredients and their content on labels of main and auxiliary food specially for infants and other specific groups;

(III) advertisement on functions on health food labels and in instructions and promotional materials.

Article 46 Where labels and instructions of food or food additives produced or dealt in by food producers or operators have minor faults which will not affect food safety or mislead consumers, competent market regulation departments of the people's government above county level shall order food producers or operators to make corrections.

Where labeling problems affect food safety, competent authorities shall urge enterprises to take measures to eliminate hidden food safety risks.

Article 47 Where relevant adjustment of national supervision policies lead to noncompliance of food labeling with related national laws, regulations or standards, and where the name, address and production licensing of food producers and operators change, the food producers and operators shall take measure to make corrections or make incomplete information complete, and the transition period for use of old labeling is 6 months; if the transition period for use of old labeling is otherwise specified in relevant laws, regulations, standards or documents, relevant provisions thereof apply.

Products which use old labeling and are produced in the transition period are permitted to sold (or used in operation activities) until the food quarantine period expires.

Article 48 Encourage food producers and operators to carry out clean label actions, use food additives as less as possible or use no food additives.

Chapter VI Legal Liabilities

Article 49 Where producers and operators falsely indicate production date and shelf life or label the food and food additives whose shelf life has expired, punishment shall be imposed according to Article 124.1 of Food Safety Law of the People's Republic of China.

Article 50 Where food producers and operators fall under one of following circumstances, market regulation departments above county level shall impose punishment according to Article 125.1 of Food Safety Law of the People's Republic of China.

(I) food labeling uses characters or patterns which are false, exaggerated or easy to mislead consumers;

(II) take drug name as food name, or mention functions of disease prevention and treatment in food labeling;

(III) health food name is indicated for general food, or health functions are claimed for general food;

(IV) name of food for special medical purpose is indicated for general food, or clinical effect of food for special medical purpose is claimed for general food;

(V) the list of ingredients and other compulsory marking content are falsely indicated;

(VI) food additives which shall be indicated according to relevant provisions are used in food and not indicated, or the way of labeling of food additives doesn't comply with relevant laws, regulations and food safety standards.

(VII) food labeling doesn't comply with the Measures and doesn't fall under the scope of minor faults.

(VIII) operators of imported food fail to provide Chinese labeling.

(IX) health function claimed on health food labels are inconsistent with registration or record content or related to functions of disease prevention and treatment.

Article 51 Where food producers and operators counterfeit or alter food labels or instructions, market regulation departments above county level shall confiscate illegal gain, impose a penalty of more than 20,000 yuan but less than 30, 000 yuan and revoke food production licensing if any; where the acts constitute a crime, criminal liabilities shall be ascertained.

Article 52 Where there are acts in violation of Article 29 , Article 38 and Article 39 of the Measures, except the circumstances listed in Article 49 and Article 50, penalties shall be imposed according to Article 125.2 of Food Safety Law of the People's Republic of China.

Article 53 Where there are acts in violation of Article 30 to Article 37 of the Measures, penalties shall be imposed according to Article 125.2 of Food Safety Law of the People's Republic of China.

Article 54 Entities that violate Article 42 of the Measures and fail to express remedies for consumers shall be ordered to make corrections within specified period; for those who refuse to make corrections, a penalty of 5,000 yuan shall be imposed. Where entities alter the production date during adoption of remedies, punishment shall be imposed according to Article 124.1 of Food Safety Law of the People's Republic of China.

Article 55 Where labeling of food and food additives which violates Article 46.1 of the Measures have minor faults but do not affect food safety or mislead consumers, market regulation departments above county level shall handle it according to Article 125.2 of Food Safety Law of the People's Republic of China.

Article 56 Where personnel engaged in supervision and management of food labeling have such actions as dereliction of duty and misuse of authority, the competent administrative organs impose administrative sanctions.

Article 57 In addition to compulsory marking items specified in the Measures, trademarks, advertisement, patent information, quality marks and other noncompulsory marking items for food labeling shall be faithful; where relevant content violates Advertisement Law of the People's Republic of China, Law of the People's Republic of China for Countering Unfair Competition or other relevant laws or regulations, it shall be handled according to relevant laws and regulations, and the food producers and operators shall take on civil liabilities according to law.

Chapter VII Supplementary Provisions

Article 58 Labeling of food produced by small food workshops is subject to the Measures.

Article 59 The Measures come into force on XXXXXX, and Administrative Provisions on Food Labeling published by the original General Administration of Supervision, Inspection and Quarantine is abolished at the same time.

END OF TRANSLATION

Attachments:

No Attachments.