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Thai FDA Eases Its Labeling of Prepackaged Food Regulation

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Report Highlights:

On February 16, 2017, Thailand notified the World Trade Organization (WTO) of a draft Ministry of Public Health (MOPH) amendment to MOPH notification No. 367 entitled “Labeling of Prepackaged Foods” (G/SPS/N/THA/219/Add.3). This draft amendment will ease some of the current labeling restrictions faced by the food industry.

General Information:

Thai FDA Eases Its Labeling of Prepackaged Food Regulation

On February 16, 2017, Thailand notified the World Trade Organization (WTO) of a draft Ministry of Public Health (MOPH) amendment to MOPH notification No. 367 entitled “Labeling of Prepackaged Foods” (G/SPS/N/THA/219/Add.3). This draft amendment will change the current regulations by:

- Exempting the declaration of food ingredient percentages for food products that are sold directly to food manufacturers or used as raw materials in food processing. However, the declaration of this information needs to be clearly displayed in a product manual or a sales document. Additionally, an exemption on the display of this information in a product manual or a sales document is given to food manufacturers or importers that manufacture or import food ingredients for their own food products or who have an agreement to provide such information directly to the food processors.
- Modifying the allergen statement requirements from a full declaration of “Information for food allergen: contains.....” to the statement “Contains.....” or “May contain.....” The amendment also provides a list of food items that are exempt from the declaration of allergen information requirement.
- Repealing the requirement that mandates the display of food additive functional class for food additives other than colors, food enhancers, food preservatives, and sweeteners.
- Amending date marks on labels
- Permitting “gluten free’ claims on food labels.
- Amending the font size on labels.

Below is the unofficial translation of the proposed revised regulation notified to the WTO as G/SPS/N/THA/219/Add.3

(Unofficial Translation)
Notification of the Ministry of Public Health
(No....) B.E.
Re: Labeling of Prepackaged Foods (No. 2)

It deems appropriate to amend the notification of the Ministry of Public Health, Re: Labels.

By the virtue of the provisions in Section 5 in the first phrase, and Section 6 (10) of the Food Act B.E. 2522 (1979), the Minister of Public Health hereby issues the notification as follows:

Clause 1: Repeal Clause 4 of the notification of the Ministry of Public Health (No. 367) B.E. 2557 (2014), Re: Labeling of Prepackaged Foods, dated 8th May B.E. 2557 (2014) and use the following text.

“Clause 4 Labels of pre-packed foods manufactured for sale, imported for sale or being sold must be displayed in Thai though the labels may also have text in English. The label shall at least contain the following details unless otherwise exempted by the Food and Drug Administration:

- (1) Food name
- (2) Food serial number
- (3) Name and addresses of a manufacturer, a repacker, or an importer; or a head office, as

the case may be:

(3.1) For foods manufactured in Thailand, the label is required to display the name and address of a manufacturer, or repacker; or the name and address of a head office of a manufacturer or a repacker with following information:

(3.1.1) the term “Manufacturer” or “Manufactured by” in the case of a manufacturer;

(3.1.2) the term “Repacker” or “Repacked by” in the case of a repacker;

(3.1.3) the term “Head office” in the case of displaying the address of a head office of a manufacturer or a repacker.

(3.2) For imported foods, the label is required to display the name and address of an importer with the term “Importer” or “Imported by” as well as the name and the country of the manufacturer.

(4) Food quantities shall be expressed in the metric system:

(4.1) Foods in solid form shall be expressed by net weight;

(4.2) Foods in liquid form shall be expressed by net volume;

(4.3) Foods in semi-solid form may be expressed either by net weight or by net volume;

For foods required to use drained weight according to the Notification of the Ministry of Public Health, it is required to display such drained weight.

(5) Ingredients shall be presented in estimated weight percentage in descending order except:

(5.1) Foods where the whole label area is less than 35 cm². However, in these cases, the label is required to display major ingredients on the product packaging or

(5.2) Foods containing only single ingredients irrespective of food additives or flavoring agents.

(5.3) For dried, powdered, or concentrated foods that need to be diluted or dissolved before consumption, the label may choose to display either the major ingredients in estimated percentage or the product components when diluted or dissolved in the manner as indicated on the label or the label may display both.

(6) The statement of “Information for food allergy: contains.....” for cases where the product is used as an ingredient or “information for food allergy: may contain.....” for cases of possible contamination during manufacturing process, the (blank area shall be filled with type or kind of allergen or hypersensitivity substances). In cases where the food manufacturers or importers select not to display the full statement of “Information for food allergy”, the food manufacturers or importers can instead choose to display the statement of “Contains.....” or “May contain”. However, this text is required to be inside a box (a frame) where the font color is contrasted to the box/frame background and the box/frame border color is contrasted to the label background.

The font size as per previous paragraph shall be in accordance with Clause 14(3) and not smaller than the font for displaying the ingredients. It should be shown below the display area of the ingredient list.

The type or kind of food as mentioned in the first paragraph, which is an allergen or a substance that causes hypersensitivity includes:

(6.1) cereal grains containing gluten (e.g. wheat, rye, barley, oat, spelt, or a hybrid strain of those cereal grain, and the products thereof except

(a) Glucose syrup or dextrose derived from wheat

(b) Maltodextrin derived from wheat

(c) Glucose syrup derived from barley

- (d) alcohol produced by the distillation of grains
- (6.2) crustacean and products of these (e.g. crab, shrimp, Mantis shrimp, lobster);
- (6.3) egg and egg products;
- (6.4) fish and fish products except where fish gelatin is used as a carrier for a vitamin or a carotenoid;
- (6.5) peanut and peanut products
- (6.6) soybean and soybean products except:
 - (a) Oils and fats from soybean that passes through a purification process
 - (b) Mixed tocopherols (INS306), D-alpha-tocopherols, DL-alpha-tocopherols, D-alpha tocopheryl acetate, DL-alpha tocopheryl acetate, or D-alpha-tocopheryl acid succinate that comes from soybeans
 - (c) Phytosterol and phytosterol esters derived from soybean oil
 - (d) Plant stanol esters manufactured from sterol of soybean derived vegetable oil
- (6.7) milk and dairy products including lactose except lactitol;
- (6.8) tree nuts and nut products e.g. almonds, walnuts, pecans; and
- (6.9) sulfites of 10 mg/kg or above.

However, (6) does not include food allergens or substances that causes hypersensitivity when they are major ingredients and the food name clearly states the allergen or substance that causes hypersensitivity such as fresh cow's milk, baked peanuts, etc.

(7) Display of the functional class names of food additives together with the specific names or the International Numbering System (INS) number. A food additive carried over into a food in a significant quantity or in an amount sufficient to perform a technological function in that food as a result of the use of raw materials or other ingredients in which the additive was used and in case of colors, flavor enhancers, or sweeteners shall also display the following statements as the case may be:

- (7.1) "Natural color" or "Synthetic color" followed by the specific name or INS number (as the case may be)
- (7.2) Functional class name followed by the specific name for the flavor enhancer and sweetener.

For food additives other than preservatives, flavor enhancers, sweeteners, and colors, the words "food additive" shall be used in substitute of the functional class name together with the specific name or INS number.

(8) Display of "Natural flavor", "Identical natural flavor" or "Artificial flavor" as applicable.

(9) Display of "date, month and year" for foods with a shelf life of less than 90 days; or the display of "date, month and year" or "month and year" for foods with a shelf life that exceeds 90 days with a display of "Best Before" or "Expired".

In addition to the text displays as prescribed in the first paragraph, the display of "manufactured on" or "expired on" may be required subject to the notification of the Ministry of Public Health for particular foods.

The display of "date, month and year" or "month and year" shall be in the order of "date, month and year" or "month and year". However, "month" may be displayed either numerically or alphabetically. In case the declaration is not in accordance with the above paragraph, clearly understandable text explaining the display format is required.

(10) Warning (if any).

(11) Storage instructions (if any).

(12) Cooking instructions (if any).

(13) Instructions for the use and other required information for foods intended for infants, young

children, or any other particular group.

(14) Additional declarations prescribed as per the annex attached to this notification.

(15) Declarations required for foods prescribed under the notifications of the Ministry of Public Health.

Food products not directly sold to the consumer, the repacker, or the person preparing or selling the product, shall at least display the details as provided in Clause 4 (1) (2) (3) (4) and (9). This information may be expressed in English providing that the complete details are always expressed in Thai as required by Clause 4 in a clear and easy to read manner either in the product manual or in the sales documents. Additionally, the text of “Only use as raw materials for food processing” or similar text shall be displayed on the label. A manufacturer or an importer that manufactures or imports food to be used in their own food products; or a manufacturer or an importer that manufactures or imports food to be sold to food processors under the agreement to provide the information under Clause 4(5) shall be exempted from the requirement to declare the ingredients in estimated weight percentages as required under Clause 4(5) on the label, product manual, or the sales documents.”

Clause 2: Repeal Clause 11 of the notification of the Ministry of Public Health (No. 367) B.E. 2557 (2014), Re: Labeling of Prepackaged Foods, dated 8th May B.E. 2557 (2014) and use the following text.

“Clause 11 Label claims of substances or other compositions in food shall:

(1) Not apply to food that is prohibited to use such substances under notifications of the Ministry of Public Health, foods that do not naturally contain such substances, or foods of which its manufacturing process does not produce such substances.

(2) Not be prohibited substances used in foods as per notifications of the Ministry of Public Health

(3) Not provide misleading information about the product.

However, the above paragraph shall not apply to nutritional claims that have been regulated by specific notifications of the Ministry of Public Health”

Clause 3: Repeal Clause 14 of the notification of the Ministry of Public Health (No. 367) B.E. 2557 (2014), Re: Labeling of Prepackaged Foods, dated 8th May B.E. 2557 (2014) and use the following text.

“Clause 14 Text in labels shall be expressed clearly and be easy to be read. The font size shall be proportional to the label area and is required to follow either of the following:

(1) Expression of texts under Clause 4(1) shall have font height of not less than 2 mm, be clear and easy to read and proportionate to the label area, located in an area that is easy and clearly seen, and the text format should be continually aligned in the horizontal direction. Labels with an area less than 35 cm² shall have a font height not less than 1 mm.

(2) Expression of texts under Clause 4(2) shall have a font height as prescribed by the Food and Drug Administration’s requirements.

(3) Expression of texts under Clause 4(4)(5)(6) and (9) shall have a font height as follows:

(3.1) not less than 1 mm for label areas not exceeding 100 cm². Food products where the whole label area is less than 35 cm², are excepted from this requirement and may have ingredients statement placed on the packaging instead.

(3.2) not less than 1.5 mm for label areas exceeding 100 cm²

(4) Statements about nutrients, nutrient comparison tables with the WHO recommended values, preparation methods, nutritional labeling, GDA labeling, nutritional claims, nutritional values in sales

promotions, defining the target customer group for sales promotions for foods as prescribed under specific notifications of the Ministry of Public Health, the font size shall not be less than 1mm.

(5) Texts under Clause 4 (1) (4) and (9) shall be placed where they can be clearly seen.

In case texts under Clause 4(9) are placed on the bottom area or on other areas not in accordance with the first paragraph, it is required to have a statement on the label that clearly signifies where to check for date, month, and year of the best before or the expiry date; the month and year for the best before or the expiry date; and may also declare the “date, month, and year” or the “month and year” of the manufacturing, the expiry date, or the best before date.

Clause 4: Add below text as Clause 4/1 of the Ministry of Public Health (No. 367) B.E. 2557(2014), Re: Labeling of Prepackaged Foods, dated 8th May B.E. 2557 (2014)

“Clause 4/1 Manufacturer, importer, or distributor shall not sell expired food”

Clause 5: This notification shall come into force following the date of its publication in the Government Gazette.

Notified on

Piyasakol Sakolsatayadorn
Minister of Public Health