

GUIDELINES ON VOLUNTARY LABELLING OF GENETICALLY MODIFIED (GM) FOOD

PURPOSE

The Guidelines on Voluntary Labelling of GM Food (the Guidelines) set out the principles underlying the recommended labelling approaches for GM food, and provide reference for the trade to make truthful and informative labels in a consumer-friendly manner.

BACKGROUND

2. The international community is working towards a consensual system on GM food labelling. However, there is no consensus on GM food labelling in the Codex Alimentarius Commission (Codex) and it is unlikely that internationally agreed standards can be established in the near future. Nevertheless, a number of countries have introduced their own labelling requirements on GM food. In order to enhance consumers' knowledge and right to make an informed choice on GM food, the Centre for Food Safety (CFS) supports the local food trade's initiative in setting up a voluntary labelling system for GM food. A Working Group comprising representatives from the food trade, the Consumer Council and the relevant Government departments was set up by the Food and Environmental Hygiene Department (subsequently taken up by the Centre for Food Safety (CFS)) to formulate the Guidelines.

3. The Guidelines are advisory in nature and members of the trade are encouraged to adopt the Guidelines which have been jointly developed by representatives of the trade, consumer bodies and government departments. Members of the trade are reminded that they should not falsely describe their food products, which section 61 of the Public Health and Municipal Services Ordinance (Cap 132) will apply. [An extract of this section is attached at Appendix.] The guidelines will be updated as and when necessary to reflect changes in technology and the international developments of GM food labelling requirement.

BASIC PRINCIPLES

4. The Guidelines embody the following basic principles:

5. **Principle 1:** The Public Health and Municipal Services Ordinance (Cap. 132) provides the legislative framework for food safety control in Hong Kong. As stipulated in section 61, no person shall give any food sold by him or display with any food exposed for sale by him, a label, which falsely describes the food. In addition, the Food and Drugs (Composition and Labelling) Regulations require that any prepackaged food shall be marked and labelled in the prescribed manner.

6. **Principle 2:** The threshold level currently applied in the Guidelines for labelling purpose is 5%, in respect of individual food ingredient, taking account of adventitious mixing of GM and non-GM crops during harvest, transportation, processing and storage. This threshold level reflects a more pragmatic and realistic level that the trade can achieve at this stage.

7. **Principle 3:** Additional declaration on the food label is recommended when significant modifications have taken place under the following conditions –

- (a) the composition or nutritional value is significantly different from that of its conventional counterpart;
- (b) the level of anti-nutritional factors or natural toxicants is significantly different from that in its conventional counterpart;
- (c) the presence of an allergen that is not found in its conventional counterpart;
- (d) the intended use of the food is significantly different from that of its conventional counterpart; or
- (e) an animal gene has been introduced into food of plant origin.

8. **Principle 4:** Negative labelling is not recommended for food without GM counterparts, as it would be misleading to consumers.

SCOPE

9. The Guidelines are applicable to prepackaged food that contains food or food ingredients that are known to have a GM counterpart.¹

DETAILED GUIDELINES

Interpretation

10. The following definitions are applicable to the Guidelines.

¹ Negative labelling is not recommended for food of which no GM varieties have been produced, as it would be misleading to consumers.

“genetically modified (GM) food” (基因改造食物) refers to any food or food ingredient that is, or is derived from, an organism in which the genetic material has been modified using modern biotechnology;

“GM free” (不含基因改造成分) refers to any food ingredients absolutely free (i.e. zero) of GM materials;

“genetically modified organism (GMO)” (基因改造生物) means any organism in which the genetic material has been modified using modern biotechnology;

“ingredient” (配料) means any substance, including any additive and any constituent of a compound ingredient, which is used in the manufacture or preparation of a food and which is still present in the finished product, even if in altered form;

“labelling” (標籤、加上標籤), in relation to a food, includes any words, particulars, trade mark, brand name, pictorial matter or symbol relating to the food and appearing on the packaging of the food or on any document, notice, label, ring or collar accompanying the food;

“modern biotechnology” (現代生物科技) refers to the application of the following techniques that overcome natural physiological reproductive or recombination barriers and that are not used in traditional breeding and selection:

- (i) *in vitro* nucleic acid techniques, including but not limited to recombinant deoxyribonucleic acid (DNA)

and direct injection of nucleic acid into cells or organelles, or

- (ii) fusion of cells beyond the taxonomic family;

“prepackaged food”(預先包裝食物) means any food packaged, whether completely or partially, in such a way that –

- (a) the contents cannot be altered without opening or changing the packaging; and
- (b) the food is ready for presentation to the ultimate consumer or a catering establishment as a single food item.

Positive Labelling

11. Any food items² with 5% or more GM materials in their respective food ingredient(s) should be labelled as “genetically modified” in parenthesis following the name of the food/food ingredient in the list of ingredients. Alternatively, the words “genetically modified” may appear in a prominently display footnote to the list of ingredients, whereas the ingredient concerned would be marked with an asterisk “*”. However, the font size of the footnote should be at least the same size as the list of ingredients. Examples are,

² Paragraph 11 does not apply to food products, which do not contain detectable DNA or protein, including highly refined food (such as sugar and oil) and highly processed food, unless the food products have significant modification that have taken place under the conditions as stated in paragraph 12.

*For whole food or food with single ingredient*³:

List of Ingredients: soya beans (genetically modified)

配料表：大豆（基因改造）

For processed food:

List of Ingredients: flour, soya flour (genetically modified),
water, sugar, butter, and walnut

配料表：麵粉，大豆粉（基因改造），水，糖，牛油，核桃

or

List of Ingredients: flour, soya flour*, water, sugar, butter, and
walnut

*genetically modified

配料表：麵粉，大豆粉*，水，糖，牛油，核桃

*基因改造

Note:

If both the English and Chinese Languages are used in the labelling of prepackaged food, the name of the food and the list of ingredients shall appear in both languages.

12. For any GM food with significant modifications that have taken place under the following conditions –

(a) the composition or nutritional value is significantly different from that of its conventional counterpart;

(b) the level of anti-nutritional factors or natural toxicants is significantly different from that in its conventional counterpart;

³ Schedule 4 of the Food and Drugs (Composition and Labelling) Regulations exempts any food consisting of a single ingredient to comply with the labelling requirements imposed under paragraph 2 of Schedule 3 to the Regulations. However, paragraph 3 of Schedule 3 provides that if any prepackaged food which is exempted from paragraph 2 of Schedule 3 is marked or labelled with a list of ingredients on its own initiative (regardless whether the ingredients include the GM food), such list of labelling shall comply with the labelling requirements imposed under Schedule 3.

- (c) the presence of an allergen that is not found in its conventional counterpart;
- (d) the intended use of the food is significantly different from that of its conventional counterpart; or
- (e) an animal gene has been introduced into food of plant origin,

the label should provide additional words in conjunction with the name of the food or food ingredients to inform consumers the changed characteristics. For example, product containing soya bean that is genetically modified to contain high oleic acid as an ingredient, the ingredient should be labelled as “soya bean (genetically modified to contain high oleic acid)”.

13. If any GM food and their products of plant origin contain animal gene, additional information regarding the origin of animal gene⁴ following the name of food ingredient is recommended. For example, a GM food “xx” with gene from animal “A” can be labelled as:

List of Ingredients: water, sugar, xx (genetically modified, contains gene(s) from A)

配料表：水，糖，xx (基因改造，含有來自A的基因)

Negative Labelling

14. “GM free” and similar labels (e.g. GMO free, free from GM ingredients, etc.) will give consumers the impression that the food products so labelled are totally free of GM content. Since there is the possibility of unintentional mixing of GM and non-GM crops, a truly “GM free” status is

very difficult to attain. Such absolute terms may therefore be misleading to consumers and are not recommended to be used.

15. Should the trade wish to apply negative labelling other than “GM free” and similar labels to any food ingredients derived from non-GM sources (which contains less than 5% of GM content), the trade should ensure that there should be documentation to substantiate such declaration. The trade is also reminded to comply with the provisions laid down in Section 61 of the Public Health and Municipal Services Ordinance (Cap 132).

16. In addition, any such negative labelling is not recommended to indicate or imply that a certain food, as a whole, is from non-GM sources, unless all of the concerned ingredients in the product are derived from non-GM sources and have fulfilled the requirement stated in para. 15.

EFFECTIVE DATE

17. The Guidelines will come into operation on 28 July 2006.

Centre for Food Safety
Food and Environmental Hygiene Department
28 July 2006

⁴ No GM crops available in the international market at present contain any animal genes.

CHAPTER 132
PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE

Section 61 - False Labelling and Advertisement of Food or Drugs

(1) If any person gives with any food or drug sold by him, or displays with any food or drug exposed for sale by him, a label, whether or not the same is attached to or printed on the wrapper or container, which –

- (a) falsely describes the food or drug; or
- (b) is calculated to mislead as to its nature, substance or quality,

he shall be guilty of an offence, unless he proves that he did not know, and could not with reasonable diligence have ascertained, that the label was of such a character as aforesaid.

(2) Subject to the provisions of subsection (3), if any person publishes, or is partly to the publication of, an advertisement, other than a label to which the provisions of subsection (1) apply which –

- (a) falsely describes any food or drug; or
- (b) is likely to mislead as to the nature, substance or quality of any food or drug,

he shall be guilty of an offence, and, in any proceedings against the manufacturer, producer or importer of the food or drug, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

(3) In any proceedings for an offence under subsection (2), it shall be a defence for the defendant to prove either –

- (a) that he did not know, and could not with reasonable diligence have ascertained, that the advertisement was of such a character as is described in that subsection; or
- (b) that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement in the ordinary course of business.

(4) For the purposes of this section, a label or advertisement which is calculated to mislead as to the nutritional or dietary value of any food is calculated to mislead as to the quality of the food.

(5) In any proceedings under this section, the fact that a label or advertisement in respect of which the offence is alleged to have been committed contained an accurate statement of the composition of the food or drug shall not preclude the court from finding that the offence was committed.

(6) In this section, save in so far as it relates to drugs, references to sale shall be construed as references to sale for human consumption.