

Notices

Federal Register

Vol. 89, No. 233

Wednesday, December 4, 2024

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FSIS–2024–0021]

Food Date Labeling

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA); Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS).

ACTION: Request for Information.

SUMMARY: FSIS and FDA (we, the agencies) are seeking public input on food date labeling. This Request for Information seeks information on industry practices and preferences for date labeling, research results on consumer perceptions of date labeling, and any impact date labeling may have on food waste.

DATES: Submit comments on or before February 3, 2025.

ADDRESSES: FSIS invites interested persons to submit information. Submit comments by one of the following methods:

- *Federal eRulemaking Portal:* This website allows commenters to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the online instructions at that site for submitting comments.

- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.

- *Hand- or Courier-Delivered Submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2024–0021. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

Docket: For access to background documents or comments received, call 202–720–5046 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT:

FSIS: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495.

FDA: Peter Koufopoulos; Deputy Director for Animal Derived Food; Human Foods Program; Telephone: (240) 252–9709.

SUPPLEMENTARY INFORMATION:

Background

USDA and FDA jointly have broad jurisdiction and oversight over the U.S. food supply. FSIS and FDA have responsibility for ensuring that food labels on products over which they each have jurisdiction are truthful and not misleading. This applies to foods produced domestically, as well as foods imported from foreign countries. FSIS has the authority to regulate the labeling of most meat (including Siluriformes fish) and poultry products, and egg products. FDA has authority over all other foods, including seafood (except Siluriformes fish), game meat and shell eggs. Accordingly, some foods, such as eggs and meat, are regulated by both agencies.

FSIS is responsible for ensuring that meat, poultry, and egg products are safe, wholesome, and properly labeled and packaged. The Agency administers a regulatory program for meat products under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), for poultry products under the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and for egg products under the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*).

Under the FMIA, PPIA, and EPIA, any meat, poultry, or egg product is misbranded if its labeling, including date labeling, is false or misleading in any particular (21 U.S.C. 601(n)(1); 21

U.S.C. 453(h)(1); 21 U.S.C. 1036(b)). In particular, no product or any of its wrappers, packaging, or other containers shall bear any false or misleading marking, label, or other labeling, and no statement, word, picture, design, or device which conveys any false impression or gives any false indication of origin or quality or is otherwise false or misleading shall appear in any marking or other labeling (9 CFR 317.8(a), 381.129(b), 590.411(f)(1)).

For meat, poultry, and egg products under FSIS jurisdiction, dates may be voluntarily applied to product labels provided the products are labeled in a manner that is truthful and not misleading and in compliance with FSIS regulations (see 9 CFR 317.8, 381.129, and 590.411). To comply, a calendar date, if shown on labeling, must express both the month and day of the month. In the case of shelf-stable (including thermally processed, commercially sterile products) and frozen products, the year must also be displayed. Additionally, immediately adjacent to the date must be a phrase explaining the meaning of that date such as “Best if Used By.”

FDA regulates a significant portion of the nation’s food supply, including fruits, vegetables, dairy (*e.g.*, milk, cheese, yogurt), grain (*e.g.*, breads, cereals, rice), packaged foods (*e.g.*, canned foods, frozen foods, ready-to-eat foods), shell eggs (*i.e.*, whole eggs that are still in the shell), seafood (except Siluriformes fish), infant formula, dietary supplements, beverages, and game meat. FDA helps ensure that such foods are safe, sanitary, wholesome, and that their labeling is truthful and non-misleading. To achieve this, FDA administers regulatory programs under various authorities, including the Federal Food, Drug, and Cosmetic Act (FD&C Act)(21 U.S.C. 9), the Fair Packaging and Labeling Act(FPLA)(15 U.S.C. 39), and the Nutrition Labeling and Education Act (NLEA)(21 U.S.C. 9343–1).¹

Under section 403(a)(1) of the FD&C Act, a food is misbranded if its labeling is false or misleading in any particular (21 U.S.C. 343(a)). Accordingly, a food would be deemed misbranded under

¹ Under section 201(ff) of the FD&C Act, dietary supplements are deemed “food” for most purposes, and thus the labeling requirements that apply to foods generally also apply to dietary supplements, with some exceptions (*e.g.*, nutrition labeling).

section 403(a)(1) of the FD&C Act if it has a date label that is false or misleading.

The FPLA requires specific information (e.g., the net quantity of contents) to be provided on the label of consumer commodities, including food, to prevent unfair or deceptive packaging and labeling. The NLEA, which amended the FD&C Act, requires most foods to bear nutrition labeling, among other requirements. Section 403(w) of the FD&C Act requires foods (other than a raw agricultural commodity) that contain or are a major food allergen to be specifically labeled with the name of the allergen source.

The Dietary Supplement Health and Education Act (DSHEA) amended the FD&C Act to define the term “dietary supplement” and establish requirements for dietary supplements. Under section 201(ff) of the FD&C Act, dietary supplements are deemed “food” for most purposes, and thus the labeling requirements that apply to foods generally also apply to dietary supplements, with some exceptions. For example, specific nutrition labeling requirements apply to dietary supplements.

FDA regulates infant formula under the FD&C Act and FDA’s implementing regulations, which require, among other things, that infant formula labels include a “Use by” date (21 CFR 107.20(c)). Accordingly, infant formula date labeling is outside the scope of this Request for Information.

Food Loss and Waste

On June 12, 2024, the Biden-Harris Administration released the final National Strategy for Reducing Food Loss and Waste and Recycling Organics (the National Strategy).² The National Strategy lays out a path for the U.S. to meet its national goal of reducing food loss and waste by 50 percent by 2030.

The U.S. Environmental Protection Agency (EPA) estimates that in 2019, 66 million tons of wasted food was generated in the food retail, food service, and residential sectors, and most of this waste (about 60 percent) was sent to landfills. An additional 40 million tons of wasted food was generated in the food and beverage manufacturing and processing sectors.³ Wasted food is the single largest category of material placed in municipal landfills. Wasted wholesome and safe food represents nourishment that could have helped feed families in need.

² <https://www.usda.gov/sites/default/files/documents/NATIONAL-STRATEGY-FOR-REDUCING-FOOD-LOSS-AND-WASTE-AND-RECYCLING-ORGANICS.pdf>.

³ Food: Material-Specific Data | US EPA.

Additionally, water, energy, arable land, and labor used to produce wasted food could have been used for other purposes. Effectively reducing food waste will require cooperation among federal, state, tribal, territory, and local governments, food manufacturers, agriculture producers, faith-based institutions, environmental organizations, communities, and others, all along the entire supply chain.

In response to the draft National Strategy for Reducing Food Loss and Waste and Recycling Organics, FSIS and FDA received comments encouraging an update of the Federal date labeling requirements, including standardizing date labeling. Commenters noted that food manufacturers use a variety of phrases such as “Sell By,” “Use By,” and “Best By” on product labels to describe dates on a voluntary basis. According to commenters, the use of different phrases to describe dates may cause consumer confusion and lead to the premature disposal of wholesome and safe food, because it is past the date printed on the package.

As explained in the final National Strategy, both FSIS and FDA recommend that food industry members voluntarily apply the “Best if Used By” food date label, which notes the date after which quality may decline but the product may still be consumed. The “Best if Used By” label aims to lessen consumer confusion and reduce wasted food.⁴ In addition, the “Best if Used By” label was the most frequently perceived by consumers as communicating quality, among the food date labels assessed by researchers at Johns Hopkins Center for a Livable Future (CLF), which supports standardizing this label.⁵ Although FSIS and FDA encourage the use of the phrase “Best if Used By”, current federal regulations do not prohibit industry from using other date labeling phrases, such as “Sell By” or “Use By,” if they are truthful and not misleading. It should be noted that industry groups have taken steps to address consumer confusion.⁶ However, the number, diversity, and complexity of food products in the marketplace

⁴ See also <https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product-dating> and <https://www.fda.gov/news-events/fda-voices/working-food-industry-reduce-confusion-over-date-labels>.

⁵ Johns Hopkins Bloomberg School of Public Health. (2019). Survey: Misunderstanding Food Date Labels Linked with Higher Food Discards—Confusion about when to worry about food safety is widespread. <https://publichealth.jhu.edu/2019/survey-misunderstanding-food-datelabels-linked-with-higher-food-discards>.

⁶ See https://www.fmi.org/docs/default-source/Industry-Topics-Doc/fact-sheet-product-code-dating-initiative.pdf?sfvrsn=59de6c6e_2.

along with significant variability in the environmental, storage, and distribution conditions of food create challenges for standardization of food safety or quality date labels.

FSIS and FDA are requesting additional information on industry practices and barriers for standardizing food date labeling, research results on consumer perceptions of food date labeling, and any impact date labeling may have on food loss and waste. The information may be used to inform future policy decisions, guidance, or consumer education campaigns on food date labels intended to help reduce the premature discard of wholesome and safe food. Commenters should provide any data, studies, or other evidence that supports their response. To help FSIS and FDA review comments efficiently, please identify the question to which you are responding by its associated category and number (e.g. *Industry Practices and Preferences for Date Labeling* 1).

Questions for Commenters

Industry Practices and Preferences for Date Labeling

1. Which products contain date labels, and which do not? Why do some products contain date labels and others do not?

2. What standards or criteria do manufacturers and producers consider when deciding which food date label phrase to use? Are different phrases used for different products or categories of products, and if so, why? Are there legal or trade requirements or marketing standards that impact which phrases are used (i.e., local or state requirements, industry best practice standards, etc.)? If so, please describe.

3. What standards or criteria do manufacturers and producers consider when deciding what date to use?

4. Would a particular product have a different date depending on the phrase used (e.g., would the date be the same or different if the phrase were “Best if Used By” versus “Use By” or “Freeze By”)? If so, please explain.

5. What challenges or limitations do food manufacturers have when establishing or changing food date labels?

6. Are there costs associated with changing the date label phrase or date used in addition to the costs associated with any label change? If so, please explain what those are. What data are available on the use of certain food date label phrases and cost to manufacturers, retailers, or consumers?

7. How do grocery retailers determine that a food item is no longer sellable? Do

the considerations differ depending on the food item? Do the considerations take into account the phrase and/or date on the label, and if so, how?

Research on Consumer Perception of Date Labeling

8. What studies or data are available on consumer understanding of current date labeling on food that FSIS and FDA regulate, and why are these studies or data important for FSIS and FDA to consider? Are there data and studies that demonstrate that consumers are confused by date labels and believe the dates determine whether food is safe? Are there any available studies or data on whether and how consumers consider food date labels when grocery shopping or when deciding to discard food at the home?

9. What data are available on the most effective ways for presenting food date labels on food items so that consumers can easily access and clearly understand the information?

10. What studies exist on the factors that should be considered in a national education campaign aimed at reducing consumer confusion about date labels? Please explain your reasoning as to why a study should be considered.

Food Loss and Waste Research

11. What studies detailing the effects of date labeling on food waste should FSIS and FDA consider and why?

12. What factors do firms (e.g., manufacturers, retailers, food banks) and individuals consider when determining which food items to donate or discard? Specifically, do firms or individuals use food date labels to inform decisions to donate or discard food items? Please provide supporting studies or data.

13. What estimates are available concerning the value of food that is discarded due to date labels, including any studies regarding the value discarded due to confusion of date labels?

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at <http://www.fsis.usda.gov/federal-register>. FSIS will also make copies of this publication available through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to

our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service that provides automatic and customized access to selected food safety news and information. This service is available at: <https://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password-protect their accounts.

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To file a program discrimination complaint, a complainant should complete Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.usda.gov/forms/electronic-forms>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; or

(2) *Fax*: (833) 256-1665 or (202) 690-7442; or

(3) *Email*: program.intake@usda.gov.

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Done at Washington, DC.

Paul Kiecker,

Administrator.

Kimberlee Trzeciak,

Deputy Commissioner for Policy, Legislation, and International Affairs, Food and Drug Administration.

[FR Doc. 2024-27810 Filed 12-3-24; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-830]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Malaysia: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2023, through March 31, 2024. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable December 4, 2024.

FOR FURTHER INFORMATION CONTACT: Patrick Barton or Elizabeth Talbot Russ, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0012 or (202) 482-5516 respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce initiated this