

Consultation on Draft Food (Amendment) Regulations 2021: Labelling and advertising requirements for “Nutri-Grade beverages” sold in Singapore

Aim

1. The Singapore Ministry of Health (MOH) and Health Promotion Board (HPB) are seeking feedback from stakeholders on the proposed amendments to the Food Regulations under the Sale of Food Act, to introduce new requirements on “Nutri-Grade beverages” sold in Singapore, from 30 June 2022. Key changes are summarised as follows:

- a. “Nutri-Grade beverages” are to be graded “A”, “B”, “C” or “D” according to the Nutri-Grade grading system;
- b. “Nutri-Grade beverages” will have to carry a nutrition information panel, stating the energy content and the amount of carbohydrate, total sugar, fat, saturated fat and protein in the “Nutri-Grade beverages”; and
- c. “Nutri-Grade beverages” graded “C” or “D” must be labelled with a Nutri-Grade mark on the front-of-pack of the package. If the “Nutri-Grade beverage” is sold online, through a vending machine or an automated beverage dispenser, the image of the Nutri-Grade mark must be displayed to the purchaser; and
- d. “Nutri-Grade beverages” graded “D” are prohibited from advertising, except at points-of-sale platforms.

Background

2. High sugar intake is linked to increased risk of obesity and diabetes. A 2021 local meta-analysis which included studies on Asian populations found that higher consumption of sugary beverages was associated with a 51% higher risk of diabetes, compared to lower consumption¹. The World Health Organization (WHO) has called on countries to take action to reduce individuals’ intake of sugar to as low as possible, stating that “nutritionally, people do not need any sugar² in their diet”³.

3. However, Singaporeans are consuming on average twelve teaspoons (or 60g) of sugar daily. More than half of Singaporeans’ daily sugar intake comes from beverages, of which pre-packaged beverages contribute 64 per cent. This is a concern, and more needs to be done to reduce Singaporeans’ sugar intake.

4. As such, MOH announced on 10 October 2019 its decision to introduce mandatory nutrition labelling and advertising prohibitions for pre-packaged non-alcoholic beverages. This decision was made after carefully considering the feedback received from public, industry and

¹ Nithya Neelakantan, Su Hyun Park, Guo-Chong Chen, Rob van Dam. (2021; In Press) Sugar-sweetened beverage consumption, weight gain, and risk of type 2 diabetes and cardiovascular diseases in Asia: a systematic review. *Nutrition Reviews*. [Notes: For the purpose of this study, “higher consumption” is defined as daily or almost daily consumption, with a median of 2 servings per day, and “lower consumption” is defined as rare or no consumption.]

² Sugar here refers to free sugars, which is defined by the WHO as sugars added to foods and drinks, and sugar that is naturally present in honey, syrups and fruit juices. These do not include the sugars present in milk (i.e. lactose and galactose) and the sugars present in whole fruit and vegetables.

³ WHO (2016, Oct 11) *WHO urges global action to curtail consumption and health impacts of sugary drinks* [Press release] Retrieved from www.who.int/news-room/details/11-10-2016-who-urges-global-action-to-curtail-consumption-and-health-impacts-of-sugary-drinks

expert stakeholders, and reviewing existing overseas and local evidence. Together, the two new measures aim to help consumers identify beverages that are higher in sugar and saturated fat and make more informed, healthier choices, and to reduce the influence of advertising on consumer preferences, and spur industry reformulation.

5. Details of the measures, including the design of the Nutri-Grade mark, its underlying grading system and the scope of media channels subject to the advertising regulations, were announced at MOH's Committee of Supply speech on 5 March 2020.

Proposed amendments

Proposed amendments relating to labelling requirements

6. To give effect to the above labelling requirements, MOH and HPB are working with the Singapore Food Agency (SFA) to amend the Food Regulations by:

a. Inserting into Regulation 2(1) the following definitions:

““automated beverage dispenser” means a machine that dispenses non-prepacked beverages according to a pre-fixed formula, with no option for a prospective consumer of the beverage to customise the amount of any ingredient in the beverage;”;

““Nutri-Grade beverage” has the meaning given by regulation 184A;”;

““total sugar”, in respect of any Nutri-Grade beverage, means any monosaccharides and disaccharides in the Nutri-Grade beverage;”;

b. Inserting, immediately after Regulation 184, the following sub-heading and regulation. This amendment will define the term “Nutri-Grade beverage”:

Nutri-Grade beverages

184A.—(1) In these Regulations, “Nutri-Grade beverage” means any beverage (including any powder or concentration meant to be reconstituted or diluted with fluids before consumption as a beverage) other than the following:

- (a) a beverage that contains more than 0.5% (v/v) alcohol at 20°C;
- (b) a beverage that is prepared by hand at the place or premises where it is sold;
- (c) a beverage for which its purchaser may customise the amount of any ingredient in the beverage;
- (d) a beverage mentioned in paragraph (2).

(2) A Nutri-Grade beverage does not include any special purpose food —

- (a) for special medical purposes, as described in section 2 of the Codex Standard for the Labelling of and Claims for Foods for Special Medical

Purposes (CODEX STAN 180-1991), and that is labelled as being for use under medical supervision;

- (b) supplied solely to hospitals, hospices and other residential care facilities like nursing homes for the purpose of providing services to patients in those facilities;
- (c) that is infant formula;
- (d) that is follow-up formula, that is, food intended for use as a liquid part of the weaning for an infant 6 months or older or young children;
- (e) for use in an energy-restricted diet for weight reduction, and if used by a person as instructed by the manufacturer, replaces the person's total daily diet;
- (f) that is diabetic food; or
- (g) for a person who requires a specific intake of sugar or saturated fat in the person's diet as a result of a disease, disorder or other condition.

c. Inserting, immediately after the new Regulation 184A, the following sub-heading and regulation. This amendment will require the grading of Nutri-Grade beverages:

Nutri-Grade grading system

184B.—(1) A Nutri-Grade beverage intended for sale by retail in Singapore must be graded "A", "B", "C" or "D" according to the grading system specified in the Sixteenth Schedule —

- (a) if the Nutri-Grade beverage is manufactured in Singapore for sale by retail in Singapore — by its manufacturer;
- (b) if the Nutri-Grade beverage is imported for sale by retail in Singapore — by its local importer; or
- (c) in any other case — by its distributor.

(2) In these Regulations, a reference to the grade of a Nutri-Grade beverage refers to its grade according to that grading system.

d. Inserting, immediately after the new Regulation 184B, the following sub-heading and regulation. This amendment will require Nutri-Grade beverages to be labelled with nutrition information:

Nutrition information of Nutri-Grade beverages

184C.—(1) Subject to this regulation, a person required by regulation 184B(1) to grade a prepacked Nutri-Grade beverage intended for sale by retail in Singapore must label the package of the Nutri-Grade beverage with a nutrition information panel that —

- (a) complies with regulation 8A;
- (b) unless the Nutri-Grade beverage contains no carbohydrates, specifies the amount of total sugar according to either or both of the following proportions:
 - (i) in grams per 100 ml of the Nutri-Grade beverage;

- (ii) if the number of servings per package and serving size are stated, in grams per serving of the Nutri-Grade beverage;
 - (c) unless the Nutri-Grade beverage contains no fat, specifies the amount of saturated fat according to either or both of the proportions mentioned in sub-paragraph (b)(i) and (ii); and
 - (d) where the nutrition information panel specifies the amount of lactose or galactose, specifies the amount according to either or both of the proportions mentioned in sub-paragraph (b)(i) and (ii).
- (2) Where the prepacked Nutri-Grade beverage is a powder or concentration meant to be reconstituted or diluted with fluids before consumption as a beverage, the nutrition information panel mentioned in paragraph (1) —
- (a) must contain information for the Nutri-Grade beverage on the basis that it is prepared according to instructions indicated by the manufacturer on a label on the Nutri-Grade beverage's package;
 - (b) if that information is expressed as grams per 100 ml of the Nutri-Grade beverage, must state that the information is on that basis; and
 - (c) must be accompanied with those instructions.
- (3) For the purpose of paragraph (1), where more than one unit of prepacked Nutri-Grade beverage is packaged for sale as a single item, the requirement to label the package under that paragraph may be satisfied by —
- (a) labelling the package of each unit of the prepacked Nutri-Grade beverage; or
 - (b) labelling the package to be sold as a single item with a label in respect of each type of Nutri-Grade beverage within the package and including the statement "Not to be sold separately" on the package.
- (4) Where a Nutri-Grade beverage is sold by retail from an automated beverage dispenser, the retailer of the Nutri-Grade beverage must ensure the information that would have been required on a nutrition information panel under paragraphs (1) and (2), if the Nutri-Grade beverage were sold in prepacked form, is available to a person on request either —
- (a) on a website or other electronic record viewable by the person; or
 - (b) on a physical document given to the person.
- (5) This regulation does not apply to —
- (a) drinking water, if there are no ingredients that modify the amount of calories, protein, fat, saturated fat, carbohydrate or total sugars added in the drinking water; or
 - (b) coffee, tea, or a preparation of coffee or tea, if there are no ingredients that modify the amount of calories, protein, fat, saturated fat, carbohydrate or total sugars added in the coffee, tea or preparation of coffee or tea.

e. Inserting, immediately after the new Regulation 184C, the following sub-heading and regulation. This amendment will require the labelling of a Nutri-Grade beverage with a Nutri-Grade mark:

Nutri-Grade mark

184D.—(1) In these Regulations, “Nutri-Grade mark” means a mark indicating the following information for a Nutri-Grade beverage:

- (a) its grade;
- (b) its percentage of sugar content per 100 ml, rounded to the nearest whole number.

(2) For the purpose of paragraph (1)(b) —

- (a) a Nutri-Grade beverage’s sugar content is the grams of total sugar per 100 ml of the Nutri-Grade beverage minus the grams of lactose and galactose per 100 ml of the Nutri-Grade beverage; and
- (b) in determining the sugar content —
 - (i) subject to sub-paragraphs (ii) and (iii), the grams of total sugar, lactose and galactose per 100 ml of the Nutri-Grade beverage are determined —
 - (A) for a prepacked Nutri-Grade beverage — by the information on the nutrition information panel on its package; or
 - (B) for a Nutri-Grade beverage sold by retail from an automated beverage dispenser— by the information that would have been required on the nutrition information panel on its package under regulation 184C(1) and (2), if the Nutri-Grade beverage were sold in prepacked form;
 - (ii) if the information does not state the grams of total sugar, the grams of total sugar is taken to be zero grams; and
 - (iii) if the information does not state the grams of lactose or galactose, the grams of lactose or galactose (as the case may be) is taken to be zero grams.

(3) A person required by regulation 184B(1) to grade a prepacked Nutri-Grade beverage to be sold by retail in Singapore —

- (a) may label the package of a Nutri-Grade beverage with a Nutri-Grade mark if the Nutri-Grade beverage’s grade is “A” or “B”;
- (b) must label the package of a Nutri-Grade beverage with a Nutri-Grade mark if the Nutri-Grade beverage’s grade is “C” or “D”; and
- (c) if the person labels a package in accordance with sub-paragraph (a) or (b), must label the Nutri-Grade mark on the front-of-pack (called in this regulation the FOP) of the package, that is, the face of the package —
 - (i) where the Nutri-Grade beverage’s name and brand (if there is a brand) appear; and
 - (ii) that is in the consumer’s principal field of vision.

(4) For the purpose of paragraph (3), where more than one unit of prepacked Nutri-Grade beverage is packaged for sale as a single item, the requirement to label the FOP of the package under that paragraph may be satisfied —

- (a) by labelling the FOP of the package to be sold as a single item with a Nutri-Grade mark in respect of each type of Nutri-Grade beverage within the package and including the statement “Not to be sold separately” on the package; or

- (b) where the package to be sold as a single item is wholly transparent, by labelling the FOP of each unit within the transparent package and ensuring that the Nutri-Grade mark is clearly visible through the transparent package.

(5) A Nutri-Grade mark must comply with the specifications in the document known as “Specifications of the Nutri-Grade mark” published by the Health Promotion Board, as in force from time to time.

f. Inserting, immediately after the new Regulation 184D, the following sub-heading and regulation. This amendment states when and how the Nutri-Grade mark will have to be displayed:

Display of image of Nutri-Grade mark

184E.—(1) A person who sells a Nutri-Grade beverage by retail —

- (a) may display an image of a Nutri-Grade mark to any person who may purchase the Nutri-Grade beverage, if the Nutri-Grade beverage’s grade is “A” or “B”; and
- (b) must display an image of a Nutri-Grade mark to any person who may purchase the Nutri-Grade beverage, if the Nutri-Grade beverage’s grade is “C” or “D”.

(2) For the purpose of paragraph (1), the requirement to display an image of the Nutri-Grade mark is satisfied —

- (a) where the Nutri-Grade beverage is sold online — by clearly displaying the image next to or in direct relation to the online image or text listing of the Nutri-Grade beverage;
- (b) where the Nutri-Grade beverage is prepacked and sold from a vending machine —
 - (i) by ensuring that the Nutri-Grade mark on the package of the Nutri-Grade beverage is clearly visible through a window on the vending machine; or
 - (ii) by clearly displaying the image next to or in direct relation to the image or text listing or price tag of the Nutri-Grade beverage; and
- (c) where the Nutri-Grade beverage is sold from an automated beverage dispenser —
 - (i) by clearly displaying the image on, or near to, the automated beverage dispenser so that it is visible to a person who may purchase the Nutri-Grade beverage; and
 - (ii) if more than one beverage is available from the automated beverage dispenser, the image must be displayed next to or in direct relation to the image or text listing of the Nutri-Grade beverage.

(3) This regulation does not apply to a person that sells a Nutri-Grade beverage while carrying on a retail food business —

- (a) at an eating establishment; or

- (b) at a catering establishment used to provide a catering service in accordance with paragraph 2 of the First Schedule to the Environmental Public Health Act (Cap. 95).

- g. Inserting, immediately after the Fifteenth Schedule, the following Schedule on the Nutri-Grade grading system:

“SIXTEENTH SCHEDULE

NUTRI-GRADE GRADING SYSTEM

1. A Nutri-Grade beverage may be graded “A”, “B”, “C” or “D” in accordance with paragraphs 2 to 6.
2. Subject to paragraphs 5 and 6, the grade of the Nutri-Grade beverage is the lower of the following:
 - (a) the sugar content grade determined according to paragraph 3;
 - (b) the saturated fat content grade determined according to paragraph 4.
3. The sugar content grade is determined according to the following table:

Grade	A	B	C	D
Sugar content (g per 100 ml)	Not exceeding one	Exceeding one but not exceeding 5	Exceeding 5 but not exceeding 10	Exceeding 10

4. The saturated fat content grade is determined according to the following table:

Grade	A	B	C	D
Saturated fat (g per 100 ml)	Not exceeding 0.7	Exceeding 0.7 but not exceeding 1.2	Exceeding 1.2 but not exceeding 2.8	Exceeding 2.8

5. Even though a Nutri-Grade beverage’s sugar content grade and saturated fat content grade is “A”, the grade of the Nutri-Grade beverage is “B” if the Nutri-Grade beverage contains any aspartame, sugar alcohols, carbohydrate alcohols, polyhydric alcohols, or any other substance added in place of sugar to provide a sweet taste.
6. For the purpose of paragraphs 3 and 4 —
 - (a) the Nutri-Grade beverage’s sugar content is the grams of total sugar per 100 ml of the Nutri-Grade beverage minus the grams of lactose and galactose per 100 ml of the Nutri-Grade beverage;
 - (b) the Nutri-Grade beverage’s saturated fat content is the grams of saturated fat per 100 ml of the Nutri-Grade beverage; and
 - (c) in determining the sugar content and saturated fat content —

- (i) subject to sub-paragraphs (ii), (iii) and (iv), the grams of total sugar, lactose, galactose and saturated fat per 100 ml of the Nutri-Grade beverage are determined —
 - (A) for a prepacked Nutri-Grade beverage — by the information on the nutrition information panel on its package; or
 - (B) for a Nutri-Grade beverage sold by retail from an automated beverage dispenser — by the information that would have been required on the nutrition information panel on its package under regulation 184C(1) and (2), if the Nutri-Grade beverage were sold in prepacked form;
- (ii) if the information does not state the grams of total sugar or saturated fat, the grams of total sugar or saturated fat (as the case may be) is taken to be zero grams;
- (iii) if the information does not state the grams of lactose or galactose, the grams of lactose or galactose (as the case may be) is taken to be zero grams; and
- (iv) for a Nutri-Grade beverage meant to be reconstituted or diluted with fluids before consumption, “100 ml” means 100 ml of the Nutri-Grade beverage as prepared according to instructions indicated by the manufacturer according to the information.”.

Proposed amendments relating to advertising prohibitions

7. To give effect to the above advertising prohibitions, MOH and HPB are working with SFA to amend the Food Regulations by

- a. Inserting, immediately after the new Regulation 184E, the following sub-heading and regulation. This amendment sets out the prohibition on advertisements relating to Nutri-Grade beverages graded “D”:

Prohibition on advertisements relating to Nutri-Grade beverages graded “D”

184F.—(1) Subject to this regulation, a person must not publish, cause to be published, or take part in the publication of, any advertisement used or apparently used to promote, directly or indirectly, the sale of a Nutri-Grade beverage graded “D”.

(2) Paragraph (1) does not apply to any advertisement —

- (a) that does not contain a recommendation relating to the consumption of the Nutri-Grade beverage and is published by means of a catalogue, price list or other document for the purpose of supplying the Nutri-Grade beverage by wholesale;
- (b) that provides information about the name and price of its Nutri-Grade beverage but does not otherwise promote its sale and is published —
 - (i) on the corporate website of a manufacturer, an importer, a distributor or a retailer of the Nutri-Grade beverage;
 - (ii) as part of a product launch that is not accessible to any member of the general public other than an invited guest; or
 - (iii) in the form of a press or media release; or
- (c) that complies with both of the following requirements:
 - (i) the advertisement is published —
 - (A) if the Nutri-Grade beverage is sold while carrying on a retail food business — at the food establishment where that business is carried on;
 - (B) if the Nutri-Grade beverage is prepacked and sold from a vending machine — on the vending machine; or
 - (C) if the Nutri-Grade beverage is sold online — at the online location of sale;
 - (ii) the advertisement displays an image of the Nutri-Grade beverage’s Nutri-Grade mark, except that an advertisement that involves communication in an audible message need not display the image but must include the audible message that “The Nutri-Grade of this product is D.”

(3) Where a person is charged with an offence for contravening paragraph (1) in relation to an advertisement, it is a defence for the person charged to prove that —

- (a) the person was acting in the course of a business of delivering, transmitting or broadcasting communications (in whatever form or by whatever means) or making data available, and the nature of the business is such that persons undertaking it have no control over the nature or content of the communications or data; or
- (b) the person did not know and had no reason to believe that the advertisement was of a Nutri-Grade beverage graded “D”.

(4) In this regulation, “corporate website” means an Internet website of a manufacturer, an importer, a distributor or a retailer that is accessible by the public and through which the public may obtain information about the manufacturer, importer, distributor or retailer and its products.”.

8. The proposed amendments will be promulgated on 30 June 2021, and come into operation on 30 June 2022.

Request for comments

9. MOH and HPB invite views and comments on the proposed amendments to the Food Regulations to introduce Nutri-Grade labelling and advertising prohibitions for “Nutri-Grade beverages”, as described in paragraphs 6 to 8 above.

Procedure and timeframe for submitting views and comments

10. All submissions should be clearly and concisely written, and should provide a reasoned explanation for any proposed revisions.

11. Submissions should reach MOH and HPB no later than 60 days from the date of Singapore’s notification to the WTO Committee on TBT (date to be updated), through email to the following address: Nutri-Grade@hpb.gov.sg.

Updated as of 5 April 2021: Submissions should reach MOH and HPB no later than 31 May 2021, which is 60 days from the date of Singapore’s notification to the WTO Committee on TBT.