

Voluntary Report – Voluntary - Public Distribution

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Report Name: Interinstitutional Agreement on Standard NOM-051 FOPL
Compliance

Country: Mexico

Post: Mexico City ATO

Report Category: FAIRS Subject Report

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Report Highlights:

This report intends to inform U.S. processed foods and non-alcoholic beverage companies interested in the Mexican market about the additional implementations to the Front of Pack labeling that will go into effect on April 1, 2021. A draft Interinstitutional Agreement establishing a grace period from April 1 – May 31, 2021 for compliance with upcoming Standard NOM-051 stipulations is available for comments on the National Regulatory Improvement Commission (CONAMER in Spanish) website. This report intends to encourage U.S. companies interested in extending the implementation grace period to submit their comments prior to the publication of the agreement in the Federal Registry.

General Information:

Domestic and imported retail prepackaged, processed foods and non-alcoholic beverages in Mexico are subject to labeling regulations including the front-of-the pack (FOP) labeling requirement. This report intends to provide an analysis about the impact of the warning signs labeling in Mexico.

Front of Pack Labeling Implementation

On March 27, the Federal Gazette published the “Amendment to Mexican Official Standard NOM-051, General Labeling Specifications for Pre-Packaged Foods and Non-Alcoholic Drinks – Commercial and Health Information,” which include the implementation of warning signs to be affixed to processed foods and beverages labels if the products exceed critical thresholds nutrients (e.g., fats, sugars, sodium, etc.) that could lead to adverse health conditions. The regulation also includes other modifications such as mandating precautionary legends for products that include caffeine and sweeteners, and the ban of characters, graphics, pictures or games on products targeted towards increasing consumption by children.

For additional information, please consult our detailed Front of Pack Labelling report at the following [link](#).

Since October 1, 2020, domestic and imported processed foods and non-alcoholic beverages have complied with the warning signs and cautionary legends stipulations of NOM-051 by having printed labels or temporary stickers.

Draft Interinstitutional Agreement in CONAMER

On March 11, the National Regulatory Improvement Commission (CONAMER) published on its website the Draft Interinstitutional Agreement between the Ministry of Economy (Secretaría de Economía), through the General Directorate of Standards (Dirección General de Normas), the Ministry of Health (Secretaría de Salud), the Federal Commission for the Protection against Sanitary Risks (COFEPRIS), and the Federal Consumer Prosecutor’s Office (PROFECO), regarding the verification activities of the modification to the Official Mexican Standard NOM-051-SCFI/SSA1-2010 General labeling specifications for prepackaged foods and non-alcoholic beverages- Commercial and Health information.

The draft states in its articles the following procedures that will apply for the second phase of the Front of Pack Labeling starting on April 1, 2021:

FIRST: The purpose of this Interinstitutional Agreement is to recognize and establish a term from April 1, 2021 to May 31, 2021 exclusively during which producers, importers, or traders will not be sanctioned during the verification activities carried out by PROFECO, COFEPRIS, or Economía, for those pre-packaged food and non-alcoholic beverages subject to the Mexican Official Standard NOM-051 that include in their labels the new front of pack labeling system as part of the complementary nutritional information, but that do not include the commercial and sanitary information established in the Amendment that will enter into force on April 1, 2021.

SECOND. -The Authorities will not consider that there is a non-compliance of the commercial and sanitary information established in the Modification of NOM-051 during the term established in Article One of this Interinstitutional Agreement regarding the inclusion on the labels of brand characters, animations, cartoons, celebrities, athletes or mascots, interactive elements such as visual-spatial games or digital downloads when a product must place the new front labeling system, as well as the specifications of the nutritional declaration, the name of the product, list of ingredients, declaration of allergens and added sugars, nutritional and health claims, and recommendations or recognitions from professional organizations or associations, as established in the First, Fourth and Fifth transitory articles of the Amendment of NOM-051 of March 2020.

THIRD - The Authorities shall deem that no infringement exists when the domestic producers make use of labels, stickers or adhesive decals on the containers or packaging of the products subject to the Amendment of NOM-051 and comply exactly with all the elements of commercial and sanitary information foreseen in the Amendment until May 31, 2021.

FOURTH - The Authorities will consider that there is no infringement when importers make use of labels, stickers or adhesive decals on the labels, containers or packaging of origin of the imported products, and comply exactly with all the elements of commercial and sanitary information provided for in the Modification.

FIFTH - The Authorities shall consider that there is no infringement when the labels of prepackaged products include the commercial and sanitary information that are the object of the Amendment and that comply with the provisions prior to April 1, 2021.

SIXTH -As a result of the inventory rotation, it is foreseeable that consumers will observe at the point of sale the coexistence of products that comply with the commercial and sanitary information, but that do not include the other commercial and sanitary information established in the Amendment that will enter into force on April 1, 2021, in accordance with the First and Fourth Transitory Provisions of the Amendment.

SEVENTH - To provide legal certainty to producers, importers, and marketers, the Authorities shall not administratively infringe with warnings, fines, closure, arrest, suspension, revocation, cancellation, prohibition of marketing, immobilization, withdrawal from the market and/or issuance of alerts in the cases and terms identified in the preceding numerals and which are the object of this Interinstitutional

Agreement, securing, withdrawal from the market and/or issuance of alerts, in the cases and terms identified in the preceding paragraphs and which are the object of this Interinstitutional Agreement.

The Agreement will be official once it is published on the Federal Registry.

FAS Mexico recommends to U.S. companies interested on adding comments to the Interinstitutional Agreement to enter those in the following [link](#). At the moment of these report no comments have been added.

Upcoming Stipulations Affected by the April 1 – May 31 Grace Period

Without a grace period, as of April 1, 2021, Mexican authorities will verify that processed foods and non-alcoholic beverages—domestic or imported—comply definitively with the commercial and health information on their labels. In addition to the warning signs and the cautionary legends, domestic and imported products must comply with the following modifications:

Product name: the name of the product must appear in bold type within the main display area of the label.

- ***Imitation products:*** Should have in capital letters the word IMITACIÓN (imitation). The usage of this word is not allowed in pre-packaged products that have an appellation of origin or geographical indication protected or recognized by the Mexican Government.

- ***Brand Characters, Cartoons, Celebrities:*** Pre-packaged products and non-alcoholic beverages with one or more warning signs or cautionary legends should not include on their labels brand characters, cartoons, celebrities, athletes or mascots, interactive elements, such as, games -spatial or digital downloads, aimed to children.

- ***Organizations and Associations Endorsements:*** Seals or endorsement legends from organizations or associations are permitted when scientific evidence is presented as support to the Consumer Prosecutor's Office (PROFECO) specifying the target population with a specific health condition. If the product or beverage has one or more warning signs of cautionary legends, seals cannot be included.

- ***Added Sugars:*** Must be declared with the words “azúcares añadidos” (added sugars) followed by the list of ingredients in parentheses with the specific names of all added sugars in the product. Except for those that are part of a compound ingredient.

- ***Allergens:*** All ingredients or additives that may cause hypersensitivity, intolerance or allergy should be declared. Amendments of NOM-051 add to the list mollusks and their products.

- ***Manufacturer information:*** The name or company name and tax address of the responsible person of the product must be indicated on the label. In the case of imported products, the name and address of the importer, as it is in the in-country representative. The term “manufactured or packaged by or for” should be included, followed by the name, and address as appropriate.

- **Organic, Ecologic, Biologic Terms:** and names with prefixes “bio” and “eco”, must adjust to the Mexico Organic Products Act, and apply the terms set forth in any other Mexican Official Standard or applicable legal framework.

For further information and to learn more about the services provided by the Agricultural Trade Office (ATO) in Mexico, please contact us at:

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Attachments:

No Attachments.