

Voluntary Report – Voluntary - Public Distribution

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Report Name: Mexico Grants Companies Additional Month to Correct Commercial Information for Violations to NOM051 and Others

Country: Mexico

Post: Mexico City ATO

Report Category: Trade Policy Monitoring, Food and Agricultural Import Regulations and Standards - Narrative

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Report Highlights:

The Mexican Tax Administration Service (SAT) announced on February 5, 2021 that Mexican authorities will grant a 30-day period to rectify and/or correct commercial information regarding NOM-051 and other labeling NOMs. Products with label errors, omitted information, and/or inaccurate data will be allowed to enter Mexico after paying a fine to customs authorities at the point of entry. The importer can choose to take the merchandise to its fiscal address to correct labeling issues. According to SAT, this policy was implemented to simplify clearance procedures and avoid corruption practices. The stipulations in SAT's communiqué regarding rule 3.7.20 are in force from February 8, 2021.

General information:

The Mexican Tax Administration Service (SAT, in Spanish) published on February 5, 2021 the *Fourth Resolution of Modifications to the [General Foreign Trade Rules \(RGCE, in Spanish\) for 2020](#)*. The official announcement can be found on this [link](#). The official statement can be downloaded [here](#) (go to rule 3.7.20 on page 1) or attached to this report. This resolution came into force the day after its publication in the Federation's Official Gazette (DOF) but rule 3.7.20 specifically came into force on February 8, 2021. This report intends to provide information on the process to use this benefit and to highlight on which cases it can be used (when SAT has ruled the retention or fine for omission or mistakes in labeling, as stipulated in *Annex 26 of the RGCE* – attached to this report).

Guidance on process:

When the Customs Authority at the point of entry finds that a company is in infringement of article 158 of the Customs Law (regarding commercial information and labeling) because the labels on the imported products present errors, omissions, or inaccurate data, the importer will have to pay the corresponding fine. In the past, SAT would proceed to retain the merchandise, but this new rule allows the importer to choose to retain the goods at the address declared in the import document, provided that he can comply with the provisions of the procedure *form 148/LA of Annex 1.A of the RGCE* (attached to this report). In this case, SAT will appoint the offender as depositary of the goods in terms of Article 153 of the Federal Tax Code (CFF, in Spanish). This does not mean the importer can proceed to sell the merchandise; this means the importer will have 30 days to comply with the labeling rules the products violated.

This new regulation is directed to products that are subject to compliance with NOMs of commercial information labeling listed below¹:

- **NOM-139-SCFI-2012.** Commercial information. Labeling of natural vanilla extract (vanilla spp), vanilla by-products and substitutes.
- **NOM-051-SCFI/SSA1-2010.** General labeling specifications for pre-packaged food and non-alcoholic beverages. Commercial and health information.
- **NOM-050-SCFI-2004.** Commercial information. General provisions for products.
- **NOM-142-SSA1/SCFI-2014.** Alcoholic beverages. Sanitary specifications. Sanitary and commercial labeling.
- **NOM-084-SCFI-1994.** Commercial information. Specifications of commercial and health information for pre-packaged Tuna and Bonito products.
- **NOM-187-SSA1/SCFI-2002.** Products and services. Dough for tortillas, tortillas, toasts and flours prepared for their preparation and establishments where they are processed. Sanitary specifications. Commercial information. Testing methods.
- There are other NOMs, unrelated to the agri-food sector, but also affected by this rule: NOM-004-SCFI-2006, NOM-020-SCFI-1997, NOM-024-SCFI-2013 and NOM-055-SCFI-1994.

Those importers who choose to use this benefit must submit *form 148/LA* to Customs authorities and meet the following requirements²:

¹ Source: <https://www.tlcasociados.com.mx/inconsistencias-en-las-normas-oficiales-mexicanas-de-etiquetado/>

1. Present a letter that states the following:
 - a. That the importer chooses to comply at the fiscal address declared in the import document, within the 30-day period referred to in article 158 (last paragraph) of the Customs Law and that, otherwise, the importer is obliged to deliver the goods within the term and fiscal area indicated by the authority. And;
 - b. That the products will not be subject to sale until the corresponding standards are met.
2. This document must be accompanied by the “Multiple payment form for foreign trade” or “Formulario múltiple de pago para comercio exterior” which serves to prove that the corresponding fine has been paid (article 85, section XIII of the Customs Law).
3. The interested party must also present, within no more than 30 days after the notification of retention certificate by SAT, the rectification to the corresponding import document, declaring that the keys of *appendixes 2 and 8 of Annex 22* (attached to this report) prove compliance with the corresponding product labeling.

Important considerations:

In order to be able to “use” this facilitation process, the imported products should have no other grounds for confiscation or retention. The customs authority will have 10 business days to issue a resolution. If in the established period there is no response from the authority, it should be understood that the benefit was denied to the importer.

It is very important for importers to notice that if they choose to use this benefit and they do not comply with any of the requirements/conditions on *form 148/LA*, they will not be able to use this benefit again and the retained merchandise must have to remain at the fiscal address and it will not be possible to transfer it anywhere for the duration of the deposit (30 working days)³.

It is also important to notice that the modification and the provisions on rule 3.7.20 and form 148/LA apply as of February 8, 2021; but as of the publication of this report, this information has not yet been published in the DOF.

The use of this option/benefit should only be contemplated in those cases where there have been unintentional omissions or mistakes in labeling, taking into account that the resolution from the Mexican Customs authorities could be negative.

² Source: <https://mditradesolutions.com/es/blog/122-que-requisitos-y-proceso-se-debe-seguir-para-la-liberacion-de-mercancias-sujetas-a-nom-s-de-informacion-comercial>

³ Source: <https://www.tlcasociados.com.mx/inconsistencias-en-las-normas-oficiales-mexicanas-de-etiquetado/>

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Attachments:

[Tercera Versión Anticipada de la 4ta RMRGCE 2020 05-02-21.pdf](#)

[ANEXO 26 de las RGCE para 2020.pdf](#)

[ANEXO 22 de la 3aRMRGCE para 2020.pdf](#)

[Anexo 1-A RGCE.pdf](#)