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Update on Revised NOM-051 Labeling Requirements

Report Categories:

Trade Policy Monitoring

Market Development Reports

Retail Food Sector

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Report Highlights:

The Mexican government published a new version of the Mexican Official Standard: NOM-051-SCFI/SSA1-2010: "General labeling and sanitary specifications for pre-packaged food and non-alcoholic beverages". All pre-packaged food products and non-alcoholic beverages (both domestic and imported) for retail sale directly to consumers are required to comply with the revised NOM-051 effective January 1, 2011. It is very important for U.S. companies exporting to Mexico to be aware about the changes in the new NOM-051 and make any necessary adjustments to the labels of their products. The Mexican government has set up "verification units" that are authorized to evaluate that the labels of pre-packaged foods and non-alcoholic beverages comply with NOM-051. A copy of the labels must be sent to one of the verification units, which would review the label and advise whether any adjustments need to be made to ensure that it complies with NOM-051. Mexico has developed a mechanism to provide extensions to U.S. companies that will not be able to modify their labels to fulfill the requirements of the revised NOM.

General Information:

I. NOM-051 Update

On April 5, 2010, the Mexican Secretariat of Economy (SE) published a new version of the Mexican Official Standard: NOM-051-SCFI/SSA1-2010, which establishes general labeling and sanitary specifications for pre-packaged food and non-alcoholic beverages (both domestic and imported) that are for retail sale directly to consumers in Mexico. The implementation date of this revised NOM will take effect January 1, 2011. The enforcement of the new NOM-051 will be monitored jointly by the Federal Consumer Protection Agency (PROFECO), which is part of SE and the Federal Commission for the Protection against Sanitary Risks (COFEPRIS), which is part of the Mexican Secretariat of Health (SALUD).

The new NOM-051 includes several important changes as compared to the old version of the NOM.

U.S. pre-packaged food and non-alcoholic beverages for retail sale directly to consumers in Mexico are required to comply with the provisions established under NOM-051. Some of the changes to NOM-051 that may have a bigger impact are: a change from voluntary to mandatory of the indication of nutritional information in the labels; a new requirement to indicate in the labels all those ingredients/additives associated with hypersensitivity, intolerance or allergy; and new provisions related to health and nutritional claims, among others. Those U.S. companies exporting pre-packaged food products and non-alcoholic beverages to Mexico for retail sale directly to consumers will have to adjust the labels of their products to make them compliant with the revised NOM-051. The attached summary only describes some of the relevant changes included in the new NOM-051. Therefore, it is very important to review the whole text of the new NOM to make sure that the labels of pre-packaged food and non-alcoholic beverages exported to Mexico for retail sale directly to consumers are in compliance.

Spanish and Unofficial English Translation of NOM-051-SCFI/SSA1-2010: “General labeling and sanitary specifications for pre-packaged food and non-alcoholic beverages” can be found on the Mexico City ATO website at www.mexico-usda.com

II. Major Revisions to NOM-051

The following summary describes some but not all of the changes included in the new NOM-051-SCFI/SSA1-2010 as compared to the old NOM-051. Therefore, it is strongly recommendable to review the whole text of the new NOM-051 to make sure that the labels of pre-packaged food and non-alcoholic beverages exported to Mexico for retail sale directly to consumers are in compliance.

1. A new provision has been added to the scope of the NOM indicating that the new NOM-051 will not be applicable to food products and non-alcoholic beverages packed in the point of sale. According to NOM-051, the standards does not apply either to products in bulk, products subject to other regulations that specifically exclude compliance with NOM-051, and other products determined by competent authorities (section 1.2)
2. The maximum level of ethyl alcohol in a beverage to be considered a non-alcoholic beverage has been changed from “no more than 0.5%” to “less than 2.0%”. In other words, under the new NOM, any beverages containing less than 2.0% in volume of ethyl alcohol, would be considered a ”non-alcoholic beverage” (section 3.5).

3. A new term called “*Responsable del producto*” (responsible for the product) is included in the new NOM defined as: “person or company that imports or manufactures a product or that has ordered the total or partial manufacturing of the product to a third party”. The new NOM states that in the case of imported food products, the legal name and fiscal address of the “*Responsable del producto*” must appear in the label of the product and that this information can be included in the product after its customs clearance and before its sale in Mexican territory (sections 3.35 and 4.2.4).
4. The provision included in the old NOM indicating that the “best before date” must be earlier than (not exceeding) the “expiration date”, has been eliminated in the new NOM (section 3.18).
5. The percentage of necessary constitution so that a composite ingredient must be declared in the label has been changed from 25% to 5%. In other words, under the new NOM, when a composite ingredient constitutes more than 5% of a food or non-alcoholic beverage, this must be declared in the label (section 4.2.2.1.3).
6. A new paragraph has been added to the NOM indicating that all those ingredients or additives that cause hypersensitivity, intolerance or allergy must be indicated in the labels of the products. In addition, the new NOM lists a series of food products and ingredients that have demonstrated to cause hypersensitivity and therefore must always be declared, such as: cereals with gluten, crustaceans, eggs, fish, peanuts, soy, milk, nuts and sulphite in concentrations of 10 mg/kg or more, among others (section 4.2.2.2.3).
7. A new provision has been added indicating that flavors or odors can be described in the labels as: “natural”, “identical to natural” or “artificial” or with a combination of these, according to each specific case (section 4.2.2.2.4).
8. Regarding the indication of the country of origin of the product, a new provision has been added that allows the use of terms indicating the origin of the product, such as: “Canadian product” (instead of “Product of Canada”), as long as they are not misleading.
9. A new provision has been added indicating that the identification of the lot in the label must be “indelible and permanent”, and must be preceded by the terms: “LOTE”, “Lot”, “L”, “Lote”, “lote”, “lot”, “l”, “lt”, “LT”, “LOT” (sections 4.2.6.2 and 4.2.6.3).
10. A new provision has been included indicating that either the expiration date or the best before date must be included in the labels of the products, and that in the case of imported products, when the format of the expiration date or the best before date does not match with the format established in section 4.2.7.1 of the new NOM, this can be adjusted to make it compliant with the said section of the NOM; or the label must contain an interpretation of the indicated date. According to the NOM, in none of the above cases, the adjustments would be considered as an alteration of the label (section 4.2.7). The new NOM also states that the expiration date and best before date can be placed in any part of the package (section 4.2.10.1.3).
11. The new NOM lists several products in which the indication of the expiration date or best before

date in the labels is not necessary, such as: vinegar, salt, sugar, certain confectionary products, etc (section 4.2.7.4).

12. The indication of nutritional information on the labels is changed from voluntary to mandatory in the new NOM. The new NOM indicates those nutrients that must be declared such as: energetic content; quantities of proteins and carbohydrates (indicating the quantity corresponding to sugars); quantity of fats or lipids (specifying the quantity corresponding to saturated fat); quantity of fiber, etc. The new NOM also states that whenever statements are made regarding the quantity of fat acids or cholesterol, the quantities of each of the following fats must be stated: trans-fat, monounsaturated fat, polyunsaturated fat and cholesterol. In addition, the new NOM lists some products that are exempted from the indication of nutritional information in their labels (as long as a claim related to its properties is not made), such as: products that include one single ingredient, herbs, coffee extracts, tea, vinegars, purified bottled waters, etc (sections 4.2.8.1 and 4.2.8.2).

13. The new NOM indicates that the nutritional information must be presented according to the General System of Measurement Units and includes a table on how the nutritional information must be presented (section 4.2.8.3).

14. The new NOM includes some additional statements related to declaration of properties and misleading statements that are prohibited, such as: declaration of properties affirming that a said product constitutes an adequate source of all essential nutrients (section 6.1).

15. The new NOM allows the declaration of certain conditional properties such as the terms: “natural”, “kosher”, “halal”, “organic”, “biologic”, etc, as long as the product complies with the applicable requirements to make use of such terms (section 6.2).

16. A new section is included in the NOM with provisions related to the addition of health and nutritional claims in the labels of pre-packaged food products and non-alcoholic beverages. This section includes a definition of health and nutritional claims and those claims that would be allowed/prohibited in the labels of the products (section 6.3).

Source: Manitoba Food Processors Association

III. Extension Mechanism

For those U.S. companies whose product labeling cannot be modified to fulfill with the NOM-051-SCFI/SSA1-2010 in January 2011, an extension can be requested to the General Direction of Regulation of the Secretariat of Economy. This request should be presented before October 31, 2010, and technical and economic justifications are necessary. The following documentation must be included:

- Request signed by legal representative
- Legal document that show the power of the legal representative
- Amount of inventory
- Inventory rotation expected
- Draft of labeling according to the NOM-051
- Date when the inventory is expected to end

- Economy justification
- Technical justification for non compliance with the NOM-051 on January, 2010.

Extension requests should be sent to:

Mr. Christian Turegano Roldan

Director General de Normas y Presidente del Comité Consultivo Nacional de Normalización de Seguridad al Usuario, Información Comercial y Prácticas de Comercio

Dirección: Puente de Tecamachalco 6, Piso 3,

Col. Lomas de Tecamachalco,

C.P. 53950, Naucalpan de Juárez, Edo. de México.

A copy of extension requests should be sent to:

Mr. Miguel Ángel Toscano Velasco

Comisionado Federal para la Protección Contra Riesgos Sanitarios y Presidente del Comité Consultivo Nacional de Normalización de Regulación y Fomento Sanitario.

Lic. Miguel Ángel Toscano Velasco

Dirección: Monterrey 33

Col. Roma

C.P. 06700, México, D.F.

IV. Verification Units Authorized by Mexican Government Are On-Line

It is important to note that there are verification units authorized by the Mexican government to evaluate that the labels of pre-packaged foods and non-alcoholic beverages comply with NOM-051. A copy of the label must be sent to one of the verification units, which would review the label and advise whether any adjustments need to be made to ensure that it complies with NOM-051. U.S. exporters are strongly recommended to make use of the services of the said verification units to ensure that the labels of their products comply with the new NOM-051 and avoid any potential problems with their products, once the new NOM comes into effect. Preferably, in order to facilitate communication, consultations with the verification units should be made by the Mexican company that will import the products. We understand that the verification units charge a fee for their services. The list of verification units that are currently authorized to evaluate compliance of NOM-051 can be found in the following link:

http://www.economia.gob.mx/swb/work/models/economia/Resource/441/1/images/51scfi_apb04.pdf

V. For More Information

FAS/Mexico Web Site: We are available at www.mexico-usda.com or visit the FAS headquarters' home page at www.fas.usda.gov for a complete selection of FAS worldwide agricultural reporting.

FAS/Mexico YouTube Channel: Catch the latest videos of FAS Mexico at work

<http://www.youtube.com/user/ATOMexicoCity>

VI. Other Relevant Reports Submitted by FAS/Mexico:

Report Number	Subject	Date Submitted
MX0505	Mexico Revises Food Labeling Regulations	04/19/10

VII. Useful Mexican Web Sites: Mexico's equivalent to the U.S. Department of Agriculture

(SAGARPA) can be found at www.sagarpa.gob.mx and Mexico's equivalent to the U.S. Department of Commerce (SE) can be found at www.economia.gob.mx. These web sites are mentioned for the readers' convenience but USDA does NOT in any way endorse, guarantee the accuracy of, or necessarily concur with, the information contained on the mentioned sites.