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Approved By:

Richard A. Battaglia

Prepared By:

Luis Chavez

Report Highlights:

Report Highlights: This report outlines the recent update of the Mexican labeling requirements for pre-packaged foods and non-alcoholic beverages commercialized in the country. The new requirements will not go into effect until January 1, 2011, and the responsibility to meet these requirements will fall on the Mexican importer. However, U.S. exporters are encouraged to keep in close contact with their importers and/or distributors to determine what additional labeling information will be required to sell their products in Mexico.

Executive Summary:

This report was prepared by the Agricultural Trade Office of the USDA/Foreign Agricultural Service in Monterrey, Mexico for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. **Final import approval of any product is subject to the importing country's rules and regulations as interpreted by border officials at the time of product entry.**

INTRODUCTION

The Government of Mexico (GOM), through the Ministry of the Economy and the Ministry of Health, published the Mexican Official Standard (*Spanish: Norma Oficial Mexicana*, or NOM) NOM-051-SCFI/SSA1-2010 on April 5, 2010, which specifies the new commercial and sanitary information that must be included in the labeling of all food and non-alcoholic beverages traded in the country. In compliance with the Mexican industry's request for sufficient time to comply with the new regulation, the new NOM will go into effect on January 1, 2011.

Although the new regulation is set to go into effect until next year, and the final responsibility to meet the rules falls on the Mexican importer, the following report is intended to inform U.S. exporters on potential information requests from their buyers in order to comply with the new requirements and prepare for any upcoming adjustments. It will also help new-to-market exporters in understanding Mexico's applicable labeling regulations. U.S. exporters are encouraged to contact their importer or distributor to determine what additional information or descriptive elements will be required to sell products in Mexico.

This report complements [GAIN Report #MX9312: Labeling Requirements 2009](#) (published when the new NOM was being outlined) and [GAIN Report #MX8314: FAIRS Country Report 2008](#) (which outlines the current labeling requirements for prepackaged food and non-alcoholic beverages, sold directly to consumers in Mexico).

BACKGROUND

Following the compulsory review process of standards mandated by Mexican law, the Ministry of Economy (*Spanish: Secretaría de Economía*, or SE) began, in 2009, the review of the Mexican Official Standard for General Labeling Specifications of Pre-Packaged Foods and Non-Alcoholic Beverages (*Spanish: Norma Oficial Mexicana NOM-051-SCFI-1994 Especificaciones generales de etiquetado para alimentos y bebidas no alcohólicas preenvasados*, or NOM-051). The review was conducted by two National Standard Consulting committees, which drafted the revisions in the NOM, and has been subject to public scrutiny and comments since August 26, 2009. The committees reviewed public comments and modified the text as reflected in the final draft of February 4, 2010, which was published in the *Diario Oficial de la Federación* (Mexico's Federal Register) on April 5, 2010. The full text in Spanish of the document can be found at the following website: http://www.dof.gob.mx/documentos/4010/seeco11_C/seeco11_C.htm^[1]

This new NOM is basically an update of the current NOM-051, which will be superseded on January 1, 2011. The main argument the GOM used to establish the new version of the NOM is that the current

regulation is out-dated due to technological advances and the appearance of new food ingredients and additives in the marketplace, especially those related to health and weight-reducing products. The new NOM also reflects the Government's desire to provide consumers with adequate commercial information and places a special emphasis on restricting the use of "confusing" terms in labels that might mislead consumers. The revision also requires uniform, measurable information on ingredients and nutritional values.

Another appreciable adjustment is the change in the NOM's concept, evolving from a reference for commercial information only (i.e., ingredients, net content, country of origin, etc.) to a more descriptive label, including sanitary (or health-related) information, such as nutritional values, allergy-related ingredients, expiration dates and traceability information.

CHANGES FROM CURRENT REGULATION

The following is a brief description of the main differences between the current NOM and the new version, in the order they are presented in the document.

1. Changes in the NOM's objective, field of application and exemptions: There are no significant changes from the current version of the NOM. The only change, due to new market conditions, was the introduction of a new group of products that will be exempted from NOM-051 compliance. These include food and beverages that are packaged at the point of sale, such as vegetable soup that is prepared and sold in a supermarket.

2. Changes in the Reference section: Because of the new "commercial and sanitary" nature of the new NOM, additional references, highlighting the acting involvement of the Ministry of Health (*Spanish: Secretaría de Salud*, or SALUD) are included in the new regulation. References to SALUD-related standards, like NOM-086-SSA1-1994 [2], which defines some of the nutrient terms, tolerances, unit measures and specifications, is now included in the NOM.

3. Changes in definitions, symbols and abbreviations: The majority of the current definitions prevail, with minor changes. Other terms have been substantially changed, usually reflecting updated definitions from the U.N. Food and Agriculture Organization's (FAO) Codex Alimentarius. Six new terms are included. The following is a brief summary of the significant changes in this section:

- a. "Non-alcoholic beverage" is now defined as any liquid substance which provides nutrients with less than 2% of alcohol volume (in the current definition, the alcohol volume is less than 0.5%). This new percentage was change in order to harmonize the reference to related regulations from SALUD.
- a. The definition of "dietary fiber" is changed to a modified version of the CODEX definition on its nutrition labeling guidelines [3].
- a. The concept of "Available carbohydrates" is expressed as the difference between total carbohydrates and dietary fiber. According to the National Standards Consulting committees that drafted the NOM, the definition was suggested by the industry as a modified version of the FAO's Tagnames for Food Components [4].
- a. Two new nutritional terms are included: "Daily recommended intake (IDR)" and "Daily suggested intake (IDS)," which are both calculated similarly to the United States Recommended Dietary Allowance, using estimated nutritional average requirements [5], taken from Mexican nutritional literature [6].

- a. The definition of “Common-use name” allows the label to include a product’s commonly-used name as a descriptive statement. For example, “waffles” and “hot cakes.”
- a. The term “Responsible entity” means the person or company responsible for the import and/or production of food products, or the entity that ordered the partial or total manufacture of said products from a third party.
- a. The term “Nutrient Reference Values (VNR)” is defined as the values used to analyze and outline the intake of essential nutrients of healthy and well-fed populations. Like the IDR and IDS terms, this concept was suggested by the industry from Mexican nutritional literature (see footnote #6).
- a. An additional table of symbols and abbreviations of terms is now included at the end of this chapter. The justification for the inclusion of such table is that the GOM wants to harmonize the terms and symbols used in labels to avoid confusion by the consumers.

4. Changes in the Specification section: This section, along with the “Statements” section, account for the most significant changes. The main reason is the GOM’s intention to include sanitary information in the labels. In the elaboration of this section of the new NOM, the National Standard Consulting committees (based on suggestions and comments from Mexican industry) used the CODEX General Standard for the Labeling of Prepackaged Foods [7] (CODEX STAN 1-1985) and the CODEX Guidelines on Nutrition Labeling [8] (CAC/GL 2-1985) as the main references.

Notable changes in this section include new requirements to declare all ingredients and food additives that are known to cause hypersensitivity (i.e., allergies) and the need to state expiration or a “use-by” date. There is also a requirement to include additional nutritional information, such as protein content, amount of carbohydrates, types and percentages of fat, amount of dietary fiber, along with the option of voluntarily including other nutrients like vitamins B₅, D, E and K, copper, chromium, fluorine, and selenium.

The following is a brief summary of the most significant additions to the new NOM in this section:

- a. Labels should not include descriptive words or images which refer to any other product with which it might be confused, or that might make the consumer assume such a relationship.
- a. With the exception of spices and herbs, small units (where the largest surface area is less than 10 cm²), may be exempted from including the ingredients list and any usage instructions in the labels.
- a. Compound ingredients should be declared, accompanied by a list, in brackets, of its components in descending order of proportion. The NOM differs from CODEX, however, on the percentage of the final product that the compound ingredients represent in order to be described; CODEX requires the disaggregation of all compound ingredients that represent more than 5% of the final product. The new NOM, however, considered industry comments to harmonize the percentage with Mexico’s regulations, and sets the level at 25%.
- a. The new NOM streamlines terms used to describe ingredients within a product so that generic names are allowed. For example, a specific variety of pepper can be listed as “pepper”.
- a. All ingredients and additives known to cause hypersensitivity should always be declared, such as:

- Cereals containing gluten
- Crustaceans and derived products
- Eggs and egg products
- Fish and fish products
- Peanuts and its derived products
- Soybeans and soy products (except soybean oil)
- Milk and dairy products (including lactose)
- Tree nuts and nut products
- Sulfites (in concentrations of 10 mg/kg or more)

a. When declaring food additives, the label should use the common name or the terms defined by SALUD's "Agreement which defines the allowed substances that can be used as additives and complements for food, beverages and supplements [9] . Enzymes, flavors and flavorings can be described with generic names and can use grading terms like "natural" or "artificial".

- a. For food or beverages sold as a mixture or combination, the percentage of an ingredient (including compound ingredients) at the time of manufacture shall be declared, when such ingredient:
- i. Is emphasized on the label through words or pictures, or
 - ii. Is not included in the label, but is essential to characterize the product and its omission would mislead or deceive the consumer.

Such disclosure is not required when the ingredient is used in small quantities for the purpose of flavoring the product.

a. The ingredient information required for the label should be declared as a numerical percentage in close proximity to the words or pictures describing such ingredient. When describing the presence of an ingredient, a minimum percentage will be used; likewise, maximum percentages will be used when recognizing the low level of such ingredient.

a. For foodstuffs which have lost moisture following heat treatment, the percentage shall correspond to the quantity of the ingredients used, related to the finished product.

a. The label should include the name; business denomination and address of the "Responsible entity" (see changes in Definitions). When imported, this information can be attached to the product after clearing Customs and before it is commercialized.

a. For country of origin, analogous terms are authorized to describe the product's origin. For example, instead of declaring "Made in America", the label may read "American product".

a. Additional emphasis is given to lot identification, due to traceability concerns. The new NOM will require the use of permanent, indelible markings for the lot number.

a. Products are now required to include either an expiration date or a "use-by" date. Based on the products' lifespan, the label should at a minimum declare:

- i. Day and month for products lasting a maximum of three months, and
- ii. Month and year for products that last more than three months.

In the case of imported goods, when the format does not match the above requirement, changes to adjust the dates in the label will not be considered alterations or violations of the NOM. An exemption is set for vinegar, food grade salt, solid sugar, some confectionery products and chewing gum. The lot identification and the expiration/"use-by" dates can be printed anywhere along the product's package.

- a. Nutritional information will be mandatory (this is voluntary in the current NOM-051) and labels should declare:
 - i. Energy value.
 - ii. Protein content.
 - iii. Available carbohydrates, indicating the amount of sugar (when a claim is made regarding the amount of carbohydrates, the amounts of starch and/or other carbohydrate constituents may also be listed)
 - iv. Amount of fat, specifying any percentage of saturated fat (When a claim is made regarding the amount of fatty acids and/or cholesterol, the amounts of trans fatty acid, monounsaturated fatty acids, polyunsaturated fatty acids and cholesterol should be declared)
 - v. Dietary fiber (see changes in Definitions)
 - vi. Sodium
 - vii. Nutrients for which a health claim is made.
 - viii. Any other nutrients considered to be relevant.

The new NOM also defines the units of measure to be used on each specific field of the nutritional information description and how it should be displayed. Products made up of only one ingredient, herbs, spices and mixes, coffee extracts, tea infusions (with no additional ingredients), fermented vinegars, and purified water are exempt from this requirement, unless specific healthy or dietary claims are made.

- a. With regards to complementary nutrient information, the new NOM allows for the label to include percentages of vitamins A, B₁, B₂, B₃ (Niacin), B₅ (Pantothenic acid), B₆, B₉ (Folic acid), B₁₂, C, D, E, K, calcium, chromium, copper, fluoride, iodine, iron, magnesium, phosphorus, selenium and zinc.
- a. The new NOM includes a "Reference Table of the Nutritional Values" for the Mexican population so they can be used to declare the nutrient values of the ingredients [10] , in both the mandatory and the voluntary information.

5. Changes in the Calculation section: The new NOM considered industry recommendations and public comments to allow for new conversion factors and values when calculating carbohydrates, proteins, fats. These are stated in the new NOM as follows:

Carbohydrates (available)	4 kilocalories/gram	17 kilojoules/gram
Proteins	4 kilocalories/gram	17 kilojoules/gram
Fats	9 kilocalories/gram	37 kilojoules/gram

6. Changes in the Statements section: Major adjustments were made to this section, with the intention of regulating statements included in labels that might generate confusion among the consumer, especially those related to dietary guidance, good-eating habits, and nutritional properties. Once again, the drafting Standard Consulting committees used CODEX guidelines as a reference, including CODEX General Guidelines on Claims [11] (CAC/GL 1-1979), and CODEX Guidelines for use of Nutrition and Health Claims [12] (CAC/GL 23-1997). In the current NOM, this section makes reference to the prohibition of using false or misleading statements related to the nature and properties of said product and gives examples of potential misleading statements. The new NOM incorporates the definition of Conditional Claims, taken from CODEX CAC/GL 1-1979, allowing certain statements, as long as they meet the inherent conditions:

- a. A claim that a product has obtained increased nutritive value due to the addition of nutrients (like vitamins or minerals) may be given if such an addition has been made on the basis of nutritional considerations. The same applies for any claim that a food product has special

nutritional qualities by the reduction or omission of a specific ingredient.

- a. When used, terms like “natural”, “fresh”, “home-made” and “organically grown”, should be in accordance with the current legal framework. This is a very sensitive issue due to the fact that it is very common in Mexico to use these terms in a misleading or confusing form, thus the suggestion by the drafting committees to include such terms in this section.
- a. Labels can state if a product was elaborated under a religious or ritual process (e.g. halal, kosher), provided that such products follow the requirements of the related certifying authorities.
- a. Any statement that highlights the absence or non-inclusion of specific substances may be used, as long as it is not misleading and complies with the following:
 - i. The substance is not subject to specific requirements in any other Mexican NOM.
 - ii. Consumers would normally expect to find it in the final product.
 - iii. The substance was not substituted by another, giving the final product equivalent characteristics (unless such substitution is stated within the label)
 - iv. The substance is an allowed ingredient of the final product.
- a. When a statement highlights the absence or non-addition of specific nutrients, the statement is considered as a nutrition claim and should be in compliance with the nutritional reference requirements (see changes in the Specifications section).

Finally, the new NOM explains that once nutritional information requirements are covered, labels may include highlighting nutritional and health-related statements in accordance with the following guidelines, taken from CODEX CAC/GL 23-1997:

- a. Statements that describe the level of a nutrient contained in a food. For example: “source of iron” or “low-fat”.
- b. Comparisons of the nutrient levels and/or energy values of two or more products. For example, “reduced”, “fewer” or “more than”.
- c. Any claim that implies that a relationship exists between a food product and health. For example, “this product is a source of vitamin C”.
- d. Other functional claims, related to beneficial effects of the consumption of a food product.
- e. No reduction-of-disease risk statements are allowed. That means products may not claim that their ingredients may reduce the risk of any given disease. (This differs from the CODEX guidelines, which contravenes what is established in the Mexican Health Law. However, the Standards Consulting Committees noted that this may be reviewed in the future).

7. Changes in the Cautionary Notices section: The only change in this section refers to the authorization to also include in the label any suggestions or recommendations for healthy-eating habits, in accordance to the guidelines established by NOM-043-SSA2-2005 [13] .

8. Changes in the Verification & Surveillance section: The involvement of SALUD is justified by the change in the nature of the labeling regulation. The current NOM only defines the requirements for “commercial”

information, a topic overseen by the SE's Consumer Protection Attorney's Office (*Spanish: Procuraduría Federal del Consumidor*, or PROFECO) in accordance to the Federal Law for Consumer Protection. Because the new NOM will include "sanitary" information, the General Health Law establishes that anything related to sanitary information shall be verified by SALUD's Federal Commission for the Protection against Sanitary Risks (*Spanish: Comisión Federal para la Protección contra Riesgos Sanitario* or COFEPRIS), thus creating a shared responsibility for verification of compliance with labeling requirements.

Also, with the intention of differentiating the role of the verification agencies from that of the "validating" agents, called Validation Units (*Spanish: Unidades de Verificación*), which are private companies certified by the GOM to issue NOM-compliance certificates to interested parties, the new NOM includes a new section, "9 - Compliance validation", to define explicitly the role of the validating agents. One important issue is that currently recognized validating units are able to issue NOM-compliance certificates for the commercial information requirements, but due to the new nature of the NOM, they will also need to be recognized as sanitary information validation agents (which influenced the GOM's decision to grant a grace period of 270 days before the new NOM goes into effect).

ADDITIONAL COMMENTS

The fact that two National Standard Consulting Committees, one headed by SE and the other by SALUD, were involved in the new NOM's creation process highlights the GOM's interest in providing consumers with clear and adequate information in order to make informed purchasing decisions.

It is important to highlight that the NOM will not go into effect until January 1, 2011, to give the food industry sufficient time to change the labels without affecting inventory rotation and product already in place for sale. The NOM also includes the possibility to grant, on a case-to-case basis, an extension to companies that provide justification for needing more time to change their labels.

An important change was the involvement of the Ministry of Health in the creation of the new NOM. COFEPRIS will now have an active role in the surveillance and compliance review of the new NOM, in collaboration with SE's PROFECO (Procuraduria Federal del Consumidor or Prosecutor for Consumer protection). Some industry members have expressed concern about the lack of clear information regarding the role of each agency.

Regarding the Mexican industry, a large amount of comments were issued when the draft of the new NOM was under review. Almost 60 different companies, groups and associations issued their comments and the GOM took all of them, reviewed them, explained when some request or idea was discarded and adjusted the document when industry's suggestions were proven adequate. A full summary of the industry's comments and the Standard Consulting committees' observation to them can be found, in Spanish, at:

<http://www.dof.gob.mx/documentos/3996/SEECO2a/SEECO2a.htm>

For additional information, please review:

[GAIN Report #MX1223: Labeling Procedures for Consumer Products in Mexico 2001](#)

POST CONTACT AND FURTHER INFORMATION:

If you would like to learn more about what services the U.S. Agricultural Offices (ATO) in Mexico can provide, please contact our office. Our email, telephone and fax numbers are listed below. We look forward to working with you to promote exports of U.S. agricultural products to Mexico.

U.S. Agricultural Trade Office, Mexico City, Mexico

W. Garth Thorburn, Director

Erik Hansen, Deputy Director
Liverpool #31, Col. Juarez
Mexico, D.F. 06600
T: +52 (55) 5140-2671
F: +52 (55) 5535- 8357
E: ATOMexico@fas.usda.gov

U.S. Agricultural Trade Office, Monterrey, Mexico
Richard Battaglia, Director
Blvd. Diaz Ordaz #140, Torre II, Piso 7. Col. Santa Maria
Monterrey, N.L. 64650
T: +52 (81) 8333-5289
F: +52 (81) 8333-1248
E: ATOMonterrey@fas.usda.gov

FAS MEXICO WEB SITE:

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

^[1] Because the new NOM is not yet in effect, the link provided refers to the text published in the Diario Oficial de la Federacion. After January 1, 2011, the document will be available in the Mexican Official Standard Registry at: <http://www.economia-noms.gob.mx/noms/inicio.do>

^[2] Full text in Spanish available at: <http://www.economia.gob.mx/work/normas/noms/1996/086-ssa1.pdf>

^[3] Full text available at: http://www.codexalimentarius.net/download/standards/34/CXG_002e.pdf

^[4] Full list of Tagnames available at: http://www.fao.org/infoods/tagnames_en.stm

^[5] For a more descriptive analysis of the Recommended Dietary Allowance calculation, see: http://en.wikipedia.org/wiki/Daily_recommended_intake

^[6] Bourges H, Casanueva E, Rosado JL: Recomendaciones de ingestión de nutrimentos para la población mexicana. México D. F.: Editorial Médica Panamericana; 2005.

^[7] Text available at: http://www.codexalimentarius.net/download/standards/32/CXS_001e.pdf

^[8] Text available at: http://www.codexalimentarius.net/download/standards/34/CXG_002e.pdf

^[9] Full text available in Spanish at: <http://www.salud.gob.mx/unidades/cdi/nom/compi/a170706.pdf>

^[10] Based in Bourges H, Casanueva E, Rosado JL, *op.cit.*

^[11] Available at: http://www.codexalimentarius.net/download/standards/33/CXG_001e.pdf

^[12] Available at: http://www.codexalimentarius.net/download/standards/351/CXG_023e.pdf

^[13] Full text available in Spanish at: http://www.economia.gob.mx/work/normas/noms/2006/043ssa2_20005.pdf

General Information: