

THE PROJECT THAT AMENDS THE MANDATORY OFFICIAL MEXICAN STANDARD REGARDING FOOD AND NON-ALCOHOLIC BEVERAGE LABELING

A. UPDATE

Following up with our [Trade Alert](#) on the reform of the General Health Law (i.e. *Ley General de Salud*), VTZ informs new developments and details regarding the overhaul of food and non-alcoholic labeling that includes several **Frontal Warning Labels**.

On October 11th, 2019, the *Project* to amend the mandatory Mexican Official Standard (or “NOM” for its acronym in Spanish) applicable to most prepackaged food and non-alcoholic beverages labeling was published. Known as *NOM-051-SCFI/SSA1* (herein referred to as “**NOM-051**”), this NOM provides definitions, precautionary legends, prohibitions and other mandatory rules regarding the format, requirements, and content of most food and non-alcoholic beverage labels.

Although in principle the NOM-51 does not apply to prepackaged food and non-alcoholic beverages that are subject to a specific NOM, it is expected that the specific NOMs will be modified once the amendment to NOM-51 is approved.

B. HIGHLIGHTS OF THE PROPOSED AMENDMENTS TO NOM-51

1. *Frontal Warning Labels and Precautionary Legends*

The new scheme for frontal warning labels is the most significant amendment of the NOM-051. The new and proposed **Frontal Warning Labeling** scheme is based on critical nutrients and nutritional profiles. In essence, the amendment project to NOM-51 establishes **limits** to (1) calories (2) free sugars, (3) saturated fats, (4) trans fats, and (5) sodium that determine when the following **Frontal Warning Labels** must be used in the packages.

FRONTAL WARNING LABELS



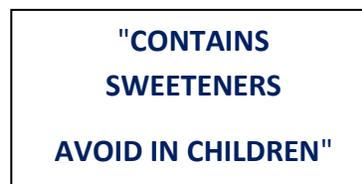
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Table 1 provides the proposed nutritional limits to determine when a **Frontal Warning Label** must be inserted in the packages of food and non-alcoholic beverages.

Table 1- Nutritional profiles for the Frontal Warning Labels (complementary nutritional declaration)

	Energy	Sugars	Saturated Fats	Trans Fats	Sodium
100 grams in solid products	≥ 275 kcal total				≥ 1 mg of sodium per kcal or ≥ 300 mg
100ml in Liquid products Liq en 100 mL de producto	≥ 70 kcal total or ≥ 8 kcal of sugars	≥ 10 % of the total energy from Free sugars	≥ 10 % of the total energy from saturated fats	≥ 1 % of the total energy from trans fats	Beverages without calories: ≥ 45 mg de sodium
Frontal Warning Label	EXCESS OF CALORIES (Exceso Calorias)	EXCESS OF SUGARS (Exceso Azucares)	EXCESS OF SATURATED FATS (Exceso Grasas Saturadas)	EXCESS OF TRANS FAT (Exceso Grasas Trans)	EXCESS OF SODIUM (Exceso de Sodio)

If a food product or non-alcoholic beverage manufacturing company intends to avoid having the “Excess of Sugars” warning by using synthetic or natural sweeteners, non-caloric or polyalcohol as ingredients, the proposed amendments to NOM-51 orders that products containing such sweeteners will have the following Frontal Warning Label:



The definition of sweetener is not clear in the amendment project to NOM-51. However, one interpretation is that honey, corn syrup, agave syrup and alike may be considered as a sweetener. If a given product contains **caffeine**, the precautionary legend "**CONTAINS CAFFEINE, AVOID IN CHILDREN**" must be inserted in the package. All legends, of course, must be written down in Spanish.

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2. Marketing Limitations in Labels and/or packages

If a food product or non-alcoholic beverage exceeds the nutritional limits from Table 1, the amendment project to NOM-051 **bans** any text or design that refers to a recommendation or approval made by a professional organization. Also, if a product is not required to have a Frontal Warning Label, the package must not inform in any form that the product is exempt from the said label.

Also, the amendment project to NOM-051 provides that it is **prohibited** for products containing a **Frontal Warning Label** to use characters, drawings, celebrities, gifts, promotions, toys or contests, discounted price, extra-content, perception games, and even to advertise on social networks. This proposed rule poses a serious constitutional question since it would prohibit the use of figurative trademarks in food and non-alcoholic beverage packages.

3. New Definitions and their implications: Added Sugars, and **genuine** and **substitute products**

The amendment project introduces new **definitions** of ingredients that will impact labels throughout the food industry. For instance, the concept **added sugars** is not defined under the current NOM-051's version and, therefore, said concept is not required to be listed in the **nutrition information panel**. If the proposed amendments are adopted, nutrition information panels will be required to report "**sugars**" as well as "**added sugars**".

The amendment project to NOM-051 also defines **genuine** and **substitute products** and their specific labeling rules. A genuine product is a product that complies with ingredients, processes or physicochemical specifications and/or requirements established in a Mexican Official Standard (NOM) or Mexican Standard (NMX, acronym in Spanish), meanwhile, a substitute product is a product that seeks to resemble a genuine product. We highlight that a substitute products is required to insert the following design or legend:

PRODUCTO SUSTITUTO

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4. Other Changes and Relevant Aspects

The amendment project to NOM-051 introduces other relevant changes, for instance, (i) ingredient lists and listing, (ii) labeling of the product's name in the package, (iii) declaration of special or superior nutritional properties, (iv) nutritious and healthy declarations, (v) physical characteristics and dimensions of the **Frontal Warning Labels** and **Precautionary Legends**.

C. SUBMIT COMMENTS

Companies and business chambers can submit comments to the Standardizing National Advisory Committee of the Mexican Ministry of Economy within the 60 calendar days, i.e. December 10th 2019 . According to our food expert, the proposed amendments will impact most, if not all, processed food products.

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If you are interested in receiving more information or submitting comments, VTZ is at your disposal to clarify any additional questions or comments.

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