

USDA Foreign Agricultural Service

GAIN Report

Global Agricultural Information Network

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Mexico

Post: Mexico ATO

Mexico Proposes New Labeling Requirement for Non-Alcoholic Beverages

Report Categories:

Trade Policy Monitoring

Sanitary/Phytosanitary/Food Safety

Food Processing Ingredients Sector

Approved By:

Erik W. Hansen

Prepared By:

Lourdes Guzman

Report Highlights:

Mexico's Secretariat of Health submitted a new regulation that requires additional labeling requirements for flavored non-alcoholic beverages containing caffeine as well as for the components used to make such beverages. This regulation will require a health statement warning that consumption of such products may be hazardous to your health as well as require the listing of specific ingredients. The regulation was published on October 10 is now open for public comments.

General Information:

On October 10, 2009, the Secretariat of Health (SH), through the Federal Commission for Protection Against Sanitary Risks (COFEPRIS), submitted a new draft regulation PROY-NOM-218-SSA1-2009 titled, “Products and Services. Flavored Non-Alcoholic Beverages, Frozen Products, Concentrates for Their Manufacture and Beverages with Added Caffeine. Sanitary Specifications and Dispositions,” to the Mexican Federal Commission for Regulatory Improvement (COFEMER).

COFEMER is the agency responsible for analyzing the viability and compliance of proposed rules, regulations or initiatives with current legislation issued by different Mexican government agencies. It is also responsible for receiving and vetting industry comments during this process. The draft regulation can be found on the COFEMER website at: (www.cofemer.gob.mx).

The document is under revision and once this process is over PROY-NOM-218-SSA1-2009 must be published in the Official Gazette at which point the public will have a 60 day official comment period.

Labeling Requirements:

The Review and Comment Process:

Officially COFEMER has a total of 30 days to review and submit a final ruling to COFEPRIS. Within the first 10 days COFEMER must produce a preliminary ruling based on their own analysis and relevant industry comments. This can be approbatory with no further information requests or it can include recommendations and additional information requests to COFEPRIS. Once this happens, the initial stage has been completed with COFEMER informing COFEPRIS on October 22, 2009, that the proposed regulation was viable.

Now COFEMER has an additional 20 working days to submit its initial ruling that might include additional industry comments (in which case it will have to be addressed once again by COFEPRIS). If there are no comments, this ruling becomes final. The deadline to submit the final ruling is November 23, 2009.

If COFEPRIS has to respond to initial industry comments (for which there is no time limit), COFEMER will have an additional 5 working days to submit the final rule.

Once the final rule has been made and the document is published by the appropriate agency as a PROY-NOM (Standard proposal) in the Official Gazette, interested parties have 60 days to make additional comments. After the 60-day comment period, the regulation will be reviewed once more and then be officially published as a NOM (Official Mexican Standard).

Interested parties can continue to submit comments through this process.

Background information:

A first draft of the current PROY-NOM-218-SSA1-2009 was published in the Official Gazette on August 22, 2003, under the name, “PROY-NOM-218-SSA1/SCFI-2002, Products and Services.

Non-Alcoholic Beverages, Frozen Products and Concentrates for Their Manufacture. Sanitary Specifications. Commercial Information.”.

This first version included the Secretariat of Economy (SE) as one of the two agencies involved in the preparation of the regulation (which was removed from the new version) and did not include the words “*flavored and beverages added with caffeine*” in the title as appears in the new draft.

This initial draft regulation was opened officially for a 60-day comment period and interested parties submitted their comments to COFEMER. However final publication was postponed indefinitely.

On November 8, 2006, COFEMER informed COFEPRIS that four letters were received from the private sector stating that:

- an email from COFEPRIS with a “revised” version of the PROY-NOM-218 published on August 22, 2003, was sent to them with a request for additional comments;
- they submitted comments to the published PROY-NOM-218 during the official comment period and that the SH never published them;
- the “revised” electronic version they received included substantial changes compared to the first version that was approved for publication, including some of the following modifications:
 - a. Name modification to NOM-218-SSA1-2002 “Products and Services. Flavored Non-Alcoholic Beverages, Their Frozen Products and Concentrates for Their Manufacture. Sanitary Specifications and Dispositions”
 - b. The SE was removed from the name (SCF1) changing it from Commercial Information to Sanitary Dispositions.
 - c. Beverages with caffeine added were included.
 - d. Several definition modifications to include additives, concentrates, and hygiene practices.
 - e. New labeling requirements such as amount of specific ingredients and warning consumption statements).
- the additional cost of implementing the proposed changes (i.e. new labels) are substantial for processors and traders and were not considered in the original documents published on August 22, 2003.
- due to all of the above, NOM-218-SSA1-2002 required a new Regulatory Impact Manifestation (MIR).

In its communication with COFEPRIS, COFEMER concluded that a new MIR was necessary and requested COFEPRIS to submit a new document.

Current Industry Response

The domestic industry continues to send in comments to COFEMER through different market sector groups such as the National Confederation of Industrial Chambers (CONCAMIN) and the National Chamber of the Manufacturing Industry (CANACINTRA) as well as other interested parties. All private sector comments for PROY-NOM-218-SSA1-2009 should be sent to COFEMER at the following e-mail address: cofemer@cofemer.gob.mx

Some areas of concern highlighted by industry groups and market analysts include maximum contents of certain ingredients such as caffeine set at 33mg per 100ml or in the case of sports drinks a minimum amount of sodium between 230 and 575 mg per liter and a maximum of 80 grams of carbohydrates per liter; specific labeling for ingredients comprising of more than 5 percent of the product; precautionary statements regarding health risks associated with the consumption of certain type of beverages such as limiting the consumption to one-a-day or not to mix with alcoholic beverages; and the cost implications of requiring new labels.