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Life Sciences Practice Group Newsletter



New criteria on compliance with labeling provisions at the point of entry into the country.

On October 26, and November 4 and 6, 2020, the General Directorate of Standards (DGN) issued a couple of official letters containing criteria on the applicability of various labeling Mexican Official Standards (NOMs) at the moment of import.

Through such criteria, the DGN intends to clarify certain questions that consumers, importers and traders had regarding the following NOMs:

» **NOM-050-SCFI-2004, Información comercial-Etiquetado general de productos. (NOM-050)**

◇ By means of this criterion, the DGN clarifies that in accordance with number 2.2, section b), **NOM-050 is not applicable to bulk products** upon their entry into the country.

◇ According to numeral 4.12, bulk products are those that must be weighed, measured or counted in the presence of the consumer because they are not repackaged at the moment of sale.

In addition, the DGN clarified that all those products that are packaged for transportation, but are still susceptible to being weighed, measured or counted in the presence of the consumer at the moment of sale, are also defined as bulk products.

» **NOM-024-SCFI-2013, Información comercial para empaques, instructivos y garantías de los productos electrónicos, eléctricos y electrodomésticos. (NOM-024)**

◇ **Replacement within the warranty:**

– By means of this criterion, the DGN clarifies that **NOM-024-SCFI is not applicable to electronic and electric products and household appliances, their spare parts, accessories, consumables, parts or components, internal or external, which may be imported for backup or replacement purposes within the warranty**, upon their entry into the country.

– The foregoing is because numeral 1.2.2 of NOM-024 establishes that “internal and external spare parts, accessories and consumables of electronic and electric products and household appliances **that are intended to be sold in bulk or for replacement purposes within warranty, do not require the instructions, warranty, or commercial information referred to in this Mexican Official Standard...**”

◇ **Products not destined for the final consumer:**

- Through this criteria, the DGN clarifies that the consumer is “the individual or legal entity that acquires, makes or enjoys as a final recipient goods, products or services”, in accordance with the definition contained in NOM-024.
- It also clarifies that for an effective scope of application of NOM-024, it must be understood that the provisions contained therein are directed only to packaged products that will be presented to the final consumers as such, for their acquisition, so if the packaging in which the product is found is not the final container that will appear before the consumer at the moment of sale, compliance with said NOM is not required.
- Therefore, the DGN confirms that products not destined for the final consumer are not subject to compliance with the NOM-024.

◊ Bulk products:

- Through this criterion, the DGN clarifies that in accordance with numeral 1.2.2 of NOM-024, spare parts, accessories and consumables of electric and electronic products and household appliances that are sold in bulk do not need to comply with the provisions contained therein.
- It also clarifies that bulk products are those which are found in packages for transportation purposes and that seek to protect them for storage and transportation purposes, in addition to the definition contained in numeral 3.12 of the NOM regarding those products that may be weighed, counted or measured before the final consumer at the moment of sale.

» **NOM-051- SCFI/SSA1-2010, Especificaciones generales de etiquetado para alimentos y bebidas no alcohólicas preenvasados- Información comercial y sanitaria.**

◊ Bulk products:

- Through this criterion, the DGN clarifies that according to numeral 1.2, section b), NOM-051 is not applicable to bulk products, since its purpose is to provide commercial and health information of **pre-packaged** products destined to the final consumer.
- In that sense and according to numeral 3.33, bulk products are those which are placed in packages of any nature and whose content may be variable, and must be susceptible of being weighed, measured and counted in the presence of the consumer at the moment of sale.

◊ Inputs not destined for the final consumer:

- Through this criterion, the DGN clarifies that NOM-051 **is not applicable to inputs that are not destined to the final consumer** at their time of entry into the country.

- The DGN clarifies that they will be understood as inputs not destined to the final consumer:
 - * Those used in the manufacture, processing, preparation or treatment of food or beverages; and
 - * Those that are transformed or used in restaurants, taverns, cafeterias or similar.

◊ Raw Material:

- Through this criterion, the DGN clarifies that NOM-051 **is not applicable to the raw material used to produce or manufacture food and non-alcoholic beverages**, upon their entry into the country, since its purpose is to provide commercial and health information on prepackaged **products intended for the final consumer**.
- For purposes of the foregoing, it clarifies that raw materials shall mean any ingredient, including additives, used in the manufacture, processing, preparation or treatment of beverages or food.

» **NOM-004-SCFI-2006, Información comercial- Etiquetado de productos textiles, prendas de vestir, sus accesorios y ropa de casa. (NOM-004)**

- ◊ Finally, through this criterion the DGN clarifies that products which are imported as inputs, corresponding to raw material, including threads and/or filaments, for the manufacture or preparation of textiles, household linen and clothing and their accessories, are excluded from the application of NOM-004-SCFI-2006, since they are not available to the final consumer at the point of sale to be acquired or consumed.
- ◊ Therefore, the DGN confirms that inputs for the manufacture or preparation of textiles, household linens and clothing and their accessories are not subject to compliance with said NOM at the point of entry into the country.

Our team of experts is at your service for any further analysis you may require regarding the potential impact that these criteria may have on your products.

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