

FOOD DATE LABELS

Right to Food and Food Waste in Mexico

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Food waste is intricately linked to the constitutional right to adequate food, yet surplus food is discarded due to unclear date labeling policies. Reforming date label policies to clearly allow the donation of foods past their preferred consumption date will ensure safe food feeds people, not landfills, thus reducing waste and supporting food security.

FOOD WASTE

20 million tons, or 35% of all food produced in country goes to waste¹

Financial losses from food waste estimated at \$25 billion²

Misconceptions about the meaning and difference between quality date labels and safety date labels exacerbate food waste and food insecurity.

FOOD INSECURITY

27.6% of Mexico's population is moderately or severely food insecure³

36.3% live below the poverty line⁴

Date labels for pre-packaged food and non-alcoholic beverages are standardized under Official Mexico Norm, NOM-051⁵ (*Especificaciones generales de etiquetado para alimentos y bebidas no alcohólicas preenvasados*), which requires manufacturers to select from either:

Preferred Consumption Date

Indicates **quality**

Expiration Date

Indicates **safety**

According to the regulation, the expiration date refers to the date after which the pre-packaged food's safety and quality characteristics are so diminished that the food cannot be safely consumed.⁶ The preferred consumption date, on the other hand, is the date after which the product cannot be sold but can still be consumed.⁷

The regulation does not address whether food may be donated or offered free of charge after the preferred consumption date has passed. As a result, potential donors are discouraged from donating after this quality-based date and may throw away past-date food, even if it is still suitable for human consumption.

The General Law on Adequate and Sustainable Food (*Ley General de la Alimentación Adeuada y Sostenible*), enacted in April 2024, recognizes the connection between food loss and waste and the right to food and provides that **all measures should be used to avoid food waste**.⁸ The law prohibits commercial establishments from violating the right to food by discarding food that is suitable for human consumption.⁹ It also requires the federal and executive branches to develop national food policies that will effectuate the right to food and have as their objectives ensuring access to adequate food, cross-sector collaboration, and social participation.¹⁰

Opportunities to Strengthen Date Label Policies to Ensure Safe, Edible Food Reaches Those in Need

CURRENT POLICY

NOM-051:

Requires manufacturers of pre-packaged food and non-alcoholic beverages to select either a safety-based date label (i.e., expiration date) or a quality-based date label (i.e., preferred consumption date). Does not mention donation.



POLICY OPPORTUNITIES

- Explicitly permit donation past quality date label for all foods (or some specified foods)
- Provide clear guidance on when manufacturers must use either the quality date label or the expiration date label.
- Implement a consumer education campaign that explains what the two different labels mean and clearly states that food past the quality date is still safe for consumption

1 Explicitly Permit Donation Past the Quality Date

• Amend NOM-051 to Explicitly Permit Donation Past the Preferred Consumption Date

The NOM-051 could clearly permit donation of food past its preferred consumption date. As written, the current regulation prohibits the **sale** of foods after the preferred consumption date has passed; though it also states that this food is still safe for consumption. Given that food past the preferred consumption date is still safe, the Ministry of Economy and Ministry of Health could amend NOM-051 to give food donors clear permission to donate food after the preferred consumption date has passed and food recovery organizations permission to accept and distribute that food.

In Ecuador, the government enacted legislation that explicitly allows foods to be donated even once they have reached the end of their marketing period, are about to expire, or have expired.¹¹ While Ecuador's practice goes even further to allow donations past the expiration date, it provides an example of the possibilities that can be unlocked for food donation if this policy is amended.

Local Model Policy: Nuevo Leon

Nuevo León issued an executive regulation in 2019 that explicitly permits the donation of food past the preferred consumption date (*la fecha de consume preferenete*) but prohibits the donation of food past the expiration date (*la fecha de caducidad*).¹²

• Issue Guidance Authorizing Donations Past the Preferred Consumption Date

Alternatively, the government could put out guidance clarifying that food can be donated past the preferred consumption date. Currently, NOM-051 prohibits sale of food past the preferred consumption date but permits its consumption. The regulation is entirely silent on donation past the preferred consumption date. Rather than amend NOM-051, the Ministry of Economy and Ministry of Health could issue guidance allowing food donors to donate and food recovery organizations to accept and distribute food past the preferred consumption date.¹³

2 Provide Guidance on When to Use Either Quality Date or Expiration Date Labels

Even though Mexico has a dual date label system, there is little guidance as to when manufacturers should use each label. To ensure quality and expiration labels are used appropriately, the government could promulgate guidelines on how to determine which date to include. For example, the European Union requires manufacturers to affix a safety-based date, only for foods that are considered "highly perishable" and no longer safe to consume after the date.¹⁴ For all other foods, manufacturers are required to affix a quality-based date label, after which food may still be perfectly safe to consume and donate.

3 Educate Consumers on the Difference Between Quality Dates and Expiration Dates

Educating consumers about the difference between quality dates and expiration dates is essential to reducing food waste and ensuring that safe, edible food reaches those in need. Research has shown that confusion over date labels leads to significant food waste. In the United Kingdom, approximately 22% of food is discarded due to misunderstandings about date labels.¹⁵ Meanwhile, 84% of consumers in the United States throw away food after the expiration date due to safety concerns, even when there is minimal risk of foodborne illness.¹⁶ This confusion extends to food businesses and food donation recipients. By educating the public on the distinct meanings of quality-based dates versus safety-based food date labels, Mexico can reduce food waste and increase food donations, ensuring that more food is available to those in need.

ENDNOTES

To help tackle common legal and policy questions surrounding food recovery and donation, the Harvard Law School Food Law and Policy Clinic (FLPC) and the Global FoodBanking Network (GFN) partnered to create The Global Food Donation Policy Atlas (Atlas Project). The Atlas Project aims to identify and explain national laws relating to food donation, analyze the most common legal barriers to promoting increased food donation, and share best practices and recommendations for overcoming these barriers. The Atlas Project is mapping the laws and policies affecting food donations in countries around the world and, in 2020, it issued this [legal guide](#) detailing Mexico's relevant food donation laws and policies and [recommendations](#) for strengthening those policies.

- ¹ WORLD BANK GROUP, MEXICO: CONCEPTUAL FRAMEWORK FOR A NATIONAL STRATEGY ON FOOD LOSS AND WASTE 6 (2020), https://wrap.org.uk/sites/default/files/2022-05/Conceptual_Framework_for_a_National_Strategy_on_Food_Loss_and_Waste_for_Mexico.pdf [https://perma.cc/G35F-EA2V].
- ² Id.
- ³ World Bank Group, Prevalence of Moderate or Severe Food Insecurity in the Population (%) - Mexico, Latin America & Caribbean (2021) <https://data.worldbank.org/indicator/SN.ITK.MSFI.ZS?end=2021&locations=MX-ZJ&skipRedirection=true&start=2014&view=chart> [https://perma.cc/HR8C-T4L9].
- ⁴ CONSEJO NACIONAL DE EVALUACIÓN DE LA POLÍTICA DE DESARROLLO SOCIAL [CONEVAL], MEDICIÓN DE POBREZA 2016-2022 (2023), https://www.coneval.org.mx/Medicion/MP/Paginas/Pobreza_2022.aspx (last visited July 25, 2024) [https://perma.cc/7VS3-WL8E].
- ⁵ MODIFICACIÓN a la Norma Oficial Mexicana, NOM-051-SCFI/SSA1-2010, Especificaciones generales de etiquetado para alimentos y bebidas no alcohólicas preenvasados-Información comercial y sanitaria, Diario Oficial de la Federación [DOF] 05-04-2010, últimas reformas DOF 27-03-2020, https://www.dof.gob.mx/2020/SEECO/NOM_051.pdf; https://www.dof.gob.mx/normasOficiales/4010/seeco11_C/seeco11_C.htm.
- ⁶ Id.
- ⁷ Id.
- ⁸ Ley General de la Alimentación Adecuada y Sostenible, Diario Oficial de la Federación [DOF] 17-04-2024 (Mex.), <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGAAS.pdf>.
- ⁹ Id., art. 55.
- ¹⁰ Id., arts. 84-85.
- ¹¹ Ley Para Prevenir y Reducir la Pérdida y el Desperdicio de Alimentos y Mitigar el Hambre de las Personas en Situación de Vulnerabilidad Alimentaria, art. 14, 30 de mayo de 2022 (Ecuador), <https://faolex.fao.org/docs/pdf/ecu210684.pdf>.
- ¹² Reglamento de la Ley Del Derecho a la Alimentación Adecuada y Combate Contra el Desperdicio de Alimentos Para el Estado de Nuevo León, Periódico Oficial del Estado de Nuevo León, art. 5 27-02-2019, formato PDF, http://sistec.nl.gob.mx/Transparencia_2015/Archivos/AC_0001_0007_00167327_000003.pdf (last visited July 25, 2024).
- ¹³ See e.g., Government FAQs around NOM-051 and food importing state that if issues arise regarding NOM-051 that “are not contemplated within the field of application of a NOM,” organizations can send information about the particular issue to snice@economia.gob.mx. Preguntas Frecuentes, SERVICIO NACIONAL DE INFORMACION DE COMERCIO EXTERIOR SNICE (2020), https://www.snice.gob.mx/~oracle/SNICE_DOCS/FAQS_ETIQUETADO-noms_20200930-20200930.pdf.
- ¹⁴ Food Information Regulation 1169/2011 (EU) at arts. 9 ¶ f and 24, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R1169>.
- ¹⁵ U.S. GOV'T ACCOUNTABILITY OFF. [GAO], DATE LABELS ON PACKAGED FOODS: USDA AND FDA COULD TAKE ADDITIONAL STEPS TO REDUCE CONSUMER CONFUSION, GAO-19-407 13 (2019), <https://www.gao.gov/assets/710/701238.pdf> [https://perma.cc/Z4W3-KML2].
- ¹⁶ Emily Broad Leib et al., Consumer Perceptions of Date Labels: National Survey, FLPC, NAT'L CONSUMERS INST., & JOHNS HOPKINS CT. FOR LIVABLE FUTURE 1–2 (May 2016), http://www.chlpi.org/wp-content/uploads/2013/12/Consumer-Perceptions-on-Date-Labels_May-2016.pdf [https://perma.cc/RV35-2A4A].

