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New and Modified SPS Related Access Request Procedures Published

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Approved By:

Daniel K. Berman

Prepared By:

OAA Staff

Report Highlights:

The Mexican Government issued a Federal Register notice on May 29, 2014, detailing how the country will manage new and/or expanded market access requests for imports of animal, vegetable, or aquatic products. The sanitary and phytosanitary (SPS) requirements and necessary attestations will be published in one of three on-line consultative systems to support transparency and the development or modification of these requirements will be based on the herein stated practices and timelines.

General Information:

Introduction: This report summarizes an official announcement by the Secretariat of Agriculture, Livestock, Rural Development, Fishery and Food (SAGARPA) published in Mexico's *Diario Oficial* (Federal Register) on May 29, 2014, related to the SPS principles and criteria governing imports of animal, vegetable, aquaculture and fishery products into Mexico. Later, on June 4, 2014, this document was notified to the World Trade Organization Committee on Sanitary and Phytosanitary Measures as [G/SPS/N/MEX/259](#).

SAGARPA has published the procedures for the importation and mitigation, in case of SPS irregularities, what the Mexican government will do and how it will consider new products/countries not currently eligible for access into Mexico. This document unifies, as well, these procedures for animal, plant, and aquatic products.

Disclaimer: This summary is based on a cursory review of the subject announcement and therefore should not, under any circumstances, be viewed as a definitive reading of the regulation in question, or of its implications for U.S. agricultural export trade interests. In the event of a discrepancy or discrepancies between this summary and the complete regulation or announcement as published in Spanish, the latter shall prevail.

Title: Agreement publicizing the general criteria applied by Mexico for the establishment and modification of health and safety requirements for animal, vegetable, aquaculture and fishery (hereafter, aquatic) imported goods regulated by SAGARPA through the National Service of Health, Food Safety and Food Quality (SENASICA).

Important Dates:

1. Publication Date: May 29, 2014
2. Enforcement Date: July 28, 2014

Executive Summary: SAGARPA published an [Announcement](#) in the Federal Register, on May 29, 2014, containing the general criteria and principles governing how SPS related requirements for the import of animal, vegetable, and aquatic products into Mexico will be managed by SENASICA. According to the announcement, SENASICA has implemented three different publicly accessible electronic systems to consult SPS importation requirements for animals, plants, and aquatic products and their sub-products known as the "*Modulo de Consulta de Requisitos*" (hereinafter MCR). These three MCRs are as follows:

- [Zoosanitary Consultative System \(for animal and animal products\)](#)
- [Phytosanitary Consultative System \(for plant and plant products\)](#)
- [Aquatic Health Consultative System \(for aquaculture and fisheries products\)](#)

Officials stated that in order to facilitate international trade of these products and to provide transparency, SAGARPA published this Agreement, which indicates how and under which conditions SENASICA will establish new or modify existing SPS requirements. In addition, the MCR

requirements will be published in individual requirement sheets known as “combinations” which will contain all necessary attestations that need to be included in the accompanying certificates issued by an exporting country.

SENASICA officials pointed out this new Agreement would have limited impact on current import requirements for U.S. agricultural products since existing practice has been to include the required attestations into the necessary MCR combination sheets. Rather, this would affect future modifications and changes that involve new product or new product combinations. As USDA agencies already work with SENASICA interlocutors on their SPS related requests, little disruption or change is expected.

The Agreement states that upon detection of a risk to animal, plant or aquatic health and safety not covered by the corresponding MCR combinations, SENASICA will amend the requirements and announce the changes through public consultation (referred to in Article 14, paragraph II of the Agreement). Also, the Agreement references the World Trade Organization (WTO) SPS Agreement and what is afforded to member countries (e.g., decisions should be science-based and not measures guised as trade protection). Moreover, should an emergency SPS situation arise, Mexico will be able to amend the requirements so as to protect the nation’s interests.

Announcement Details:

Chapter 1: General Provisions

The notice states that the objective of the Agreement is to disclose the general criteria applicable to Mexico for the establishment or modification of import requirements for the health and safety of animal, plant, and aquatic goods regulated by SENASICA.

Importers of the following items are subject to the requirements as specified in the individual MCR combination:

- Live animals, animal products or by-products, and goods for animal consumption or use;
- Plants, their products and by-products;
- Living aquatic species, their products and aquaculture and fishery products; and,
- Agricultural or livestock equipment

Importers will need to comply with the requirements at the first point of entry into Mexican territory at the Inspection Offices of Sanitary Health (OISA). After inspection by official SENASICA staff and the issuance of an approved import certificate, the product can enter the country.

Chapter II: Applicable Requirements in the MCRs

Article 4 of the notice states that the MCR requirements for agricultural and aquatic product imports into Mexico are supported on the principles provided in the WTO SPS Agreement and the related recommendations of recognized international organizations. Further, the Agreement recognizes that requirements should be based on scientific evidence, risk analysis, recommendations, and/or risk evaluations associated with the goods and the equivalence and/or mutual recognition between Mexico and the countries with which trade is maintained.

Article 5 indicates that SAGARPA may modify, amend, and/or create new requirements depending on

the country of origin and merchandise imported or rescind the requirements in order to mitigate risk or ensure greater protection of agricultural, livestock and aquatic health within Mexico's territory.

Chapter III: Implementation or Modification of the Import Requirements for Animal, Vegetable, and Aquatic Origin Products

Article 6 establishes that the new import provisions must consider Mexico's health and food safety preservation. Sensitive and important factors that must be evaluated are the import vessels/conveyance, product type, declared end use, destination within Mexico and the product origin.

Article 7 indicates that once the analysis is concluded and if the result is considered acceptable, the outcomes will provide the basis for issuing a new MCR combination for publication.

Article 8 establishes the rules by which new products or new exporting countries, not currently included in a corresponding MCR combination will be subjected to during SENASICA's analysis. SENASICA will conduct official consultations with official counterparts and request technical information in order to conduct the corresponding risk analysis for pests and diseases, or the associated product risk assessment.

Article 9 lists the items that must be included in a solicitation of SENASICA for the development of a new or modified combination when the request comes from an interested private party, governmental representative, or interested country. Among the most important requirements are: full identification of the interested party, specie, use, products or by products, country of origin, technical information, final destination, additional attachments providing miscellaneous information, and, point of entrance.

Article 10 establishes that once the analysis of the provided information is concluded, SENASICA will respond, via official communication, that the product to be imported is subject to further regulation, or if it is not allowed due to a permanent quarantine risk in the country of origin. Also, the article indicates that SENASICA will respond whether pest or disease risk analysis is required or if the existing requirements in the MCR combination for the import of such product are acceptable.

Article 11 establishes that the process to present information, as indicated in article 9, as well as the issuing of resolutions for the interested party will be done in compliance with current laws.

Article 12 affords interested parties and foreign governments 120 calendar (i.e., natural) days to present the requested information. If no answer is received during this timeframe the petition will be concluded and the applicant will be given the opportunity to request, again, a new or amended combination.

Article 13 establishes that if the answer from the country of origin on the subject of the petition is received during the established timeframe, SAGARPA will initiate one of the following procedures:

- Recognize the sanitary services of the country of origin
- Audit the country of origin
- Authorize establishments for export to Mexico by the competent SENASICA authority
- Conduct a pest or disease risk analysis and/or assessment of the associated risks caused by the product

Article 14 states that once the analysis is concluded favorably, the product can be authorized for import and SENASICA will initiate the following actions:

- Inform the country of origin of the applicable requirements for the animal, vegetable, or aquatic product. If the competent authority in the country of origin is in disagreement, the competent authority can deliver comments and begin negotiations to reach an agreement on proposed measures.
- The applicable requirements for animal, vegetable, and aquatic origin products will be made publicly available through the corresponding SENASICA MCR website for the following periods:
 - A 60-day period to deliver comments;
 - A 45-day period to perform comment analysis; and,
 - Once the requirements are accepted, they will be posted in the MRC with a 30-day grace period, before full enforcement, for interested parties to begin to process the new requirements.
- Once a negotiation concludes, the certifying authority of the country of origin should deliver the proposed certificate to SENASICA that complies with the requirements. Certificates for plants or plant products must bear the recognition of the International Plant Protection Convention (IPPC).
- The agreed upon and authorized zoo-sanitary, phyto-sanitary, and aquatic product certificates will be sent by the SENASICA competent authority to the General Direction of Phyto-zoo-sanitary Inspection (DGIF) for distribution to SENASICA official personnel at the points of entrance (OISAs).
- SENASICA will inform the petitioner and the country that:
 - The certificate has been received, authorized and distributed to the points of entrance (if applicable);
 - That there is an existing MCR combination; and,
 - That imports of the merchandise can initiate

Article 15 contains thirty-seven risk mitigation measures at SENASICA's disposal that can be used, individually or combined, in accordance with national or international regulations to achieve the appropriate level of protection for the country. These measures are, for example, animal vaccination, product reconditioning or treatment, and requirements that products originate from certain zones free of disease or pest.

Chapter IV: Modification of Requirements

Article 16 indicates that upon detection of a risk to the health and safety of animal, vegetable, or aquatic products not covered by the SPS requirements in the MCRs, SENASICA may modify the requirements, and make them available to the public through the SENASICA website.

Article 17 indicates that SENASICA, based on technical evaluation, can identify additional risk management options that are different from the applicable requirements, which may be incorporated immediately for the benefit of users and will be announced to the public via the SENASICA website through the corresponding MCR combination.

Chapter V: Emergency Requirements

According to Article 18, if SAGARPA determines an emergency that poses risk to the health or safety of animals, plants, and aquatic products in Mexico exists, it will immediately perform one of the following through SENASICA:

- Update the applicable risk mitigation requirements; or,
- As a precautionary measure, suspend the importation of the commodities in which the emergency was detected.

Article 19 states that when applying an emergency measure, the corresponding MCR system shall communicate the emergency through the alerts section.

Chapter VI: Consulting the Import and Entrance Requirements for Animal, Plant, and Aquatic Origin Products

Articles 20 through 23 indicate that the import requirements for animal, plant, and aquatic origin products will be established in the corresponding MCR that is available through SENASICA's web page. In case a product, a country of origin, or combination is not found in the MCR, the interested party must file a request according to Article 9 of the present Agreement to initiate the procedure for issuing the requirements associated with a new product or new origin.

Further, the articles indicate that all importers must comply with the legal requirements established by SENASICA that are contained in the corresponding MCR combination or requirement sheets.

Additionally, the articles state that importers should comply with all of these requirements at the first point of entry into the country and obtain the corresponding import certificate for the product to be able to enter the country.

Chapter VII: Conditioning of Animal, Plant, and Aquatic Origin Products

Articles 24 and 25 indicate that whenever SENASICA detects SPS non-compliance in a product, it may perform a technical evaluation to determine an effective measure to mitigate a risk and ensure an adequate level of protection. In the event it is appropriate, the product can be re-conditioned (cleaned, fumigated, etc.) with costs charged to the importer. There will be a full record of the event in an issued "Act".

Chapter VIII: Imports for Research Activities

Articles 26 and 27 indicate that in order to import material for research activities, SENASICA will evaluate requests and determine the appropriate course considering the possible SPS risks associated with the product.

Transitory Articles

The Agreement will be in force 60 calendar days after the publication in the Federal Register.

Notification of this Agreement will be made in writing to the Members of the WTO SPS Committee.
NOTE: THIS WAS DONE ON JUNE 4, 2014 in [G/SPS/N/MEX/259](#). END NOTE.

Author Defined:

For More Information:

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FAS/Mexico Web Site: We are available at www.mexico-usda.com.mx or visit the FAS headquarters' home page at www.fas.usda.gov for a complete selection of FAS worldwide agricultural reporting.

Useful Mexican Web Sites: Mexico's equivalent to the U.S. Department of Agriculture (SAGARPA) can be found at www.sagarpa.gob.mx, equivalent to the U.S. Department of Commerce (SE) can be found at www.economia.gob.mx and equivalent to the U.S. Food and Drug Administration (SALUD) can be found at www.salud.gob.mx. These web sites are mentioned for the readers' convenience but USDA does NOT in any way endorse, guarantee the accuracy of, or necessarily concur with, the information contained on the mentioned sites.