

April 27, 2019

MEXICO CANNABIS UPDATE #5

Cancellation of COFEPRIS Guidelines



On March 26, 2019, the Federal Commissioner for the Protection of Sanitary Risks (“COFEPRIS”), Mr. Jose A. Novelo Baeza, announced the revocation of the guidelines issued on October 30, 2018 for the import and sale of products with cannabis and its derivatives.

The grounds for such action were largely based on omitted legal formalities for the issuance of government guidelines for general application, such as a publication beforehand in the Federal Official Gazette (*Diario Oficial de la Federación*) and a regulatory impact analysis by the Mexican Commission of Regulatory Improvement (*Comision Nacional de Mejora Regulatoria*). Reference was also made to the contradiction between import/export tax rules, which prohibit the importation of cannabis plants, and the now-revoked guidelines, which provided for the granting of import permits.

The COFEPRIS revocation resolution also argues that the purpose of the [2017 amendments](#) to the health law was to allow only medical and scientific use while the revoked guidelines went beyond said scope allowing also for industrial use. Furthermore, it states that all “authorizations” (i.e. permits) issued by COFEPRIS under the revoked guidelines will be reviewed in order to determine whether they are legally valid.

It is important to note that the guidelines revocation does not imply a reversion of the legalization of cannabis for medical and scientific use. Therefore, some could argue that applications for COFEPRIS permits could still be filed even if the new specific rules are not officially enacted. Also, if any of the permits or authorizations [issued at the end of last year](#) are cancelled, legal recourses would be available to the affected parties.

Senate Consultation of Proposed Cannabis Law

As [reported in our last update](#), the Senate’s Health Committee hosted two public consultation meetings on March 13 and 20, 2019 in order to discuss the proposed bill for the Federal Law for the Regulation and Control of Cannabis (*Ley General para la Regulación y el Control de Cannabis*) (the “[Proposed Cannabis Law](#)”).

A third (and apparently the last at the Senate) public consultation meeting was held on April 8, 2019. Sen. Ricardo Monreal Avila (who introduced the bill and current Senate majority coordinator) stated that he expects that after this meeting, the Senate’s Justice, Constitutional Matters and Health Committees will issue their final resolution approving or disapproving the bill.

Mr. Jorge Alcocer Varela, Secretary of Health, presented the pillars on which cannabis policy in Mexico should stand: (1) protection of a person’s right to health; (2) respect for an individual’s self-determination; (3) promotion of evidence-based information and its



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insertion in labeling and directions; (4) protection of minors from exposure; (5) need to present the sale of cannabis as a socially responsible service; and (6) facilitation of rehab and treatment programs and making them available to the general public.

Former Senator Olga Sanchez Cordero, now Ministry of Interior and one of the bill's main champions, urged the Senate to regulate cannabis as soon as possible in light of drug cartels growth. She emphasized the need to change the government's approach to a new perspective maintaining public health balanced with the market and industry opportunity. Interestingly, she mentioned takeaways from legalization in Uruguay, the first 8 states in the U.S. which approved recreational use, and then Canada (she mentioned a meeting held last year with Canadian government to discuss the legalization process in that country).

Worth noting is the data presented about Mexico's potential for cultivation and being a global supplier. Only about 144,000 hectares are used for growing the plant (production of 15 to 27,000 tons per year) out of the estimated 24 million hectares available.

Sen. Navarro, Chairman of the Senate's Health Committee, reiterated the Senate's intention to move forward with the bill. To that end, he mentioned the possibility of working during the summer (Senate's recess period) on the bill, but likely however to reach conclusions around September.

In the meantime...

As this legalization process moves forward, some foreign companies are taking actions to become early movers in the Mexican market, assuming perhaps a risk that the bill does not pass, but with the rewards that come with first entry. Opportunities being explored include:

- Some CBD/hemp product companies starting to set up their Mexican companies or looking into partnerships with distributors or sales representatives. Some online sales platforms are already up with a limited number of products or brands.
- The same as above applies for recreational use accessories, perhaps one step behind as recreational use has not been legalized as medical and scientific.
- As the topic becomes popular and gains media coverage, interest is growing among various types of demographics in learning about cannabis medical and therapeutic uses, which poses an opportunity for educational or guidance organizations (e.g. clinics, therapy or health centers).
- Most frequently asked questions include those regarding cultivation. For those with access to land owners in Mexico, investors can start putting these projects together by obtaining surface rights, technical know-how and raising capital.

If you're interested in learning more about cannabis regulation and business in Mexico, or have any comments or questions, feel free to email me at larmendariz@caamlegal.mx.

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