

CC NEWSFLASH

Criteria for registering an address under Mexico's IMMEX Program

#158 May - June 2022 | June 27, 2022


On May 9, 2022, the Mexican Secretary of Economy issued a Decree providing general rules and criteria regarding international trade (the "Decree"), which was published in the Official Journal of the Federation and is effective the day after its publication, with some exceptions provided in the Decree's transitory articles.

The Decree abrogates the previous decree published on December 31, 2012, together with all the criteria and resolutions established in the prior decree, to the extent that such prior rules contradict what is established in the new Decree.

Based on the new criteria referenced above, it is important to identify and confirm the current official rules and criteria in relation to the registration of addresses of facilities, warehouses, or storage locations of companies with IMMEX Programs when other companies are also located at the same addresses.

Under the newly abrogated rules, in scenarios involving two or more companies with an IMMEX Program, or one or more companies with an IMMEX Program working with other companies or persons without an IMMEX Program, all such companies could be located at the same address if they all had legal possession of the property and their facilities were physically delimited and independent.

Despite the fact that the previous rule was published in 2012, it was only on September 23, 2020, that the Secretary of Economy issued Writ No. 414.2020.2288 to establish the criteria for determining a facility's delimitation and independence. Such writ also stated that any document offered to prove legal possession must include the following: (i) have at least 11 months remaining in its term, (ii) justifying reasons for cases in which operational independence is not possible, and (iii) in such case, the option of using storage service providers' addresses, establishing in all cases the requirement to indicate that the request is made in accordance with the aforementioned Writ No. 414.2020.2288.



The Decree has established a new rule in which the criteria of Writ No. 414.2020.2288 is partially incorporated through the inclusion of the following paragraph:

“3.2.5 ... For purposes of this rule, it will be understood that the premises are delimited and independent when the document that proves the legal possession of the premises establishes the dimensions of the occupied space, and in such there is a visible physical division of areas with elements such as: walls, fences, panels and vinyl lines attached to the floor (the latter, only when both activities are part of the same process carried out by the entities that share the address).”

Considering the abrogation of the prior rules and criteria that existed prior to the Decree, and that a partial incorporation of such prior rules has been made in the Decree, it is not clear whether the other elements of the criteria previously established under Writ No. 414.2020.2288 continue to apply, including the requirement to have entrances, exits and exclusive loading and unloading areas for each company. However, all companies should consider the need to meet all the criteria of Writ No. 414.2020.2288.

Regardless of the specific changes discussed above, IMMEX Program companies should plan for various factors and practical aspects that go beyond the new official criteria and present a difficult challenge for those seeking to share workspace and operate at the same location, including restrictions on labor, information technology, shared utilities, among others.

Contact:

Iker Diéguez

Partner

idieguez@ccn-law.com