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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 289 **31 March 2021**

NATIONAL REGULATOR FOR COMPULSORY SPECIFICATIONS ACT, 2008 (Act 5 of 2008), AS AMENDED THROUGH LEGAL METROLOGY ACT (Act 9 of 2014)

CALL FOR PUBLIC COMMENTS - AMENDMENT OF THE COMPULSORY SPECIFICATION FOR FROZEN LOBSTERS AND FROZEN LOBSTER PRODUCTS DERIVED THEREFROM – VC 8020

I, Ebrahim Patel, Minister of Trade, Industry and Competition, hereby advise that the National Regulator for Compulsory Specifications has requested, in terms of section 13(4) of the National Regulator for Compulsory Specification Act (Act 5 of 2008), that I declare the amendment of the *Compulsory Specification for frozen lobsters and frozen lobster products derived therefrom* **VC 8020**, as set out in the attached Schedule.

I wish to obtain the views in particular of affected persons on whether the proposed amendments are necessary, the costs likely to be incurred in adherence thereto and the likely benefits they will derive.

Any person, who wishes to comment on the introduction of the new Compulsory Specification concerned, shall submit their comments, in writing, to the Chief Executive Officer, National Regulator for Compulsory Specifications, Private Bag X 25, Brooklyn, 0075, or email Ms Maphuti Kutu, Maphuti.Kutu@nrcs.org.za, on or before the date two (2) months after the publication of this notice.

Ebrahim Patel
Minister of Trade, Industry and Competition

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SCHEDULE

AMENDMENT OF THE COMPULSORY SPECIFICATION FOR FROZEN LOBSTERS AND FROZEN LOBSTER PRODUCTS DERIVED THEREFROM – VC 8020

1. SCOPE

This Compulsory Specification applies to frozen lobsters and frozen lobster products derived therefrom for direct consumption or further processing (frozen lobsters).

Products handled by Fish Shops (over the counter sale shops), Hotels, Boarding Houses, Restaurants or Other Eating Houses mainly for catering purposes, are excluded from the scope of this Compulsory Specification.

A shop, packer or retailer involved in the handling or repacking of products for sale is regarded as a factory/ establishment/ facility (see 2.2.6 of this Compulsory Specification) and is required to comply with this Compulsory Specification.

2. DEFINITIONS

2.1. For the purposes of this Compulsory Specification the definitions in the latest edition of the SANS (South African National Standard) frozen lobsters and frozen lobster products derived therefrom: 2074 are applicable.

2.2. In this Compulsory Specification, any word or expression mentioned to which a meaning has been assigned in the National Regulator for Compulsory Specifications Act (Act No. 5 of 2008), as amended through Legal Metrology Act (Act No. 9 of 2014), shall have that meaning unless the context otherwise indicates. In addition, the following definitions shall apply:

2.2.1. **Applicant:** a handler, processor, packer, transporter, importer or exporter applying for approval of the product and/or factory/ processing facility/establishment. The handler, processor, packer, transporter, importer or exporter shall be established within the Republic of South Africa;

2.2.2. **Approval:** a confirmation by the NRCS that the product and/or factory/ establishment/ facility satisfies the requirements of this Compulsory Specification;

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2.2.3. **Conformity of production:** evidence that the handling, preparation, processing, packing, transportation, chilling, freezing, storage and quality of frozen lobsters and frozen lobster products derived therefrom as in the scope, and products derived therefrom produced for sale continues to conform to the requirements of this Compulsory Specification;

2.2.4. **DALRRD permit:** a permit required by Department of Agriculture, Land Reform and Rural Development under Marine Living Resources Act 1998 (Act No 18 of 1998), Animal Disease Act, 1984 (Act 35 of 1984) or National Environmental Management Biodiversity Act, 2004 (Act No 10 of 2004);

2.2.5. **Factory /establishment/ facility:** a South African based premises or fishing vessels on or in which frozen lobsters and frozen lobster products derived therefrom are handled and treated to prepare them for commercial purposes;

2.2.6. **HACCP (Hazard Analysis Critical Control Point):** a system which identifies, evaluates, and controls hazards that are significant to food safety;

2.2.7. **ITAC permit**: a permit required under the International Trade Administration Commission of South Africa for ITAC Act, 2002 (Act 71 of 2002);

2.2.8. **NRCS:** the National Regulator for Compulsory Specifications as established by the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008) as amended through the Legal Metrology Act (Act No. 9 of 2014);

2.2.9. **Official facility number/code:** a unique identification number or code allocated to a factory/ establishment/ facility by the NRCS;

2.2.10. **OIE**: World Organization for Animal Health;

2.2.11. **Product safety management system:** a management system implemented by a factory / establishment/ facility based on the principles of HACCP as recommended by the Codex Alimentarius Commission;

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2.2.12. **Relevant national legislation:** means the following Acts; Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No 54 of 1972); NRCS Act 2008 (Act No.5 of 2008); Legal Metrology Act 2014 (Act No. 9 of 2014); Marine Living Resources Act 1998 (Act No 18 of 1998) and applicable regulations; and

2.2.13 **SAMSM&CP:** the latest edition of the South African Molluscan Shellfish Monitoring and Control Programme administered by DALRRD.

3. GENERAL ADMINISTRATIVE REQUIREMENTS

3.1 All frozen lobsters and frozen lobster products derived therefrom to be offered for sale shall comply with the requirements of this Compulsory Specification.

3.2 The factory/ establishment/ facility for the production of the product in the Republic of South Africa shall be pre-approved by the NRCS for conformity of production requirements as prescribed in Annex A - A.1. Such approval shall be reviewed annually or more frequently as may be determined by the NRCS.

3.3 The factory/ establishment/ facility as referenced in paragraph 3.2 above shall not dispatch any product covered in the scope of this specification, without a valid NRCS approvals certificate. Provided that in the case of locally produced products which are going to be sold in the local market, originating from the NRCS approved facilities, a consignment may be released into the trade without the NRCS pre-inspection.

3.4 Application for approval of the product(s) shall be made to the NRCS for every consignment of the product covered by this specification which are imported into South Africa in accordance with the requirements of Annex A - A.2.

3.5 Application for approval required for export or any other purposes as required by the applicant, shall be made in accordance with the requirements of Annex A - A.3.

3.6 The factory/ establishment/ facility shall provide the NRCS with evidence of conformity of production on request.

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3.7 The factory/ establishment/ facility shall inform the NRCS in writing of any change in the process of production affecting any mandatory requirement of this Compulsory Specification. In the event of such change/s the NRCS may, at its discretion, demand the submission of further evidence of conformity or a new application for approval.

3.8 The factory/ establishment/ facility shall immediately report to the NRCS in writing any failure, of whatever nature, to conform to the requirements of this Compulsory Specification.

3.9 A factory/ establishment/ facility which is suspended must re-apply to the NRCS in writing within three months of the date of suspension for a reassessment; otherwise approval for the establishment to operate in terms of this Compulsory Specification will be withdrawn.

3.10 A factory/ establishment/ facility shall notify the NRCS, in writing, when its operation is closing down three (3) months before the effective date.

3.11 The testing of frozen lobsters and frozen lobster products derived therefrom against the requirements of this Compulsory Specification shall be done by microbiological and chemical test facilities that are accredited to use the referenced test methods or any other accredited method validated against the reference method, and giving results that are better, or at least equal, to the accuracy of the reference method. In the case where there are no test facilities available in the Republic of South Africa that are in compliance with the foregoing, the NRCS shall determine which facilities may be used in terms of its Conformity Assessment Policy.

3.12 The NRCS shall issue health guarantee certificates for export purposes, where required, in accordance with the requirements of the country of destination as prescribed in Annex B.

3.13 The NRCS may for the purposes of inspection and verification of products, sample products according to the regulatory risk based sampling plans.

3.14 There will be fees applicable as prescribed in the regulation R924 of 15 October 2010, published under the NRCS Act.

4. SPECIFIC REQUIREMENTS

4.1 The handling, preparation, processing, packing, transportation, freezing, storage and quality of frozen lobsters and frozen lobster products derived therefrom, as well as the requirements for the ingredients, glazing, freezing

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and frozen storage, shall comply with the requirements of the latest edition of SANS 2074.

4.2 The principles of HACCP, as recommended by the Codex Alimentarius Commission, shall as a minimum be used for the implementation of a product safety management system.

4.3 All local raw materials for processing shall be obtained from a source that has a valid permit from DALRRD to either harvest, grow, process or supply lobsters and where applicable comply with the SAMSM&CP. Raw materials from the wild shall comply with the Compulsory Specification for live lobsters (VC9104).

4.4 In the event of an amendment or updating of the SANS standard referenced in 4.1 above, the factory / establishment/ facility shall be in compliance with the amended or updated requirements within six months of publication of the amended or updated standard. If evidence of compliance to such amendments or updates cannot be provided, the approval of the factory / establishment/ facility may be withdrawn.

Note: The required World Trade Organization (WTO) transparency provision will also be considered in this period.

5. MARKINGS

5.1 The products covered in this specification shall be marked in accordance with the requirements of the latest edition of SANS 2074 as applicable and as per the labelling requirements promulgated in terms of the Foodstuffs Cosmetics and Disinfectants Act (Act 54 of 1972) as amended or in compliance with the labelling requirements of the country to which it must be exported. In terms of South African produced products the official factory / establishment /facility number issued by the NRCS in accordance with section A 1.4 of this Compulsory Specification shall be included.

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ANNEX A

(NORMATIVE)

A.1 APPLICATION FOR APPROVAL OF THE FACTORY/ESTABLISHMENT/ FACILITY AND PRODUCT IN THE REPUBLIC OF SOUTH AFRICA

The applicant shall apply in writing to the NRCS for approval of the factory / establishment/ facility. Approval of a factory / establishment/ facility shall be valid for a maximum period of one (1) year. The applicant shall reapply for approval annually.

The application shall be accompanied by the following:

A.1.1 Details of the facility for which approval is sought;

A.1.2 Documentation and records in support of an effective product safety management system. For new factory / establishment/ facility, provisional approval may be given for a period of three months in order to generate the required documentation and records;

A.1.3 Information required by the NRCS for the measures taken by the applicant to ensure ongoing conformity with the requirements of this Compulsory Specification; and

A1.4 The NRCS shall issue an official facility number/code on approval of the factory / establishment/ facility.

A.2 APPLICATION FOR APPROVAL OF IMPORTED PRODUCTS

The applicant shall apply to the nearest NRCS regional office as soon as the consignment is available for sampling and inspection and subsequent approval of the (imported) product(s). The applicant shall notify the NRCS at least 10 working days prior to the date on which approval is needed. The application shall be accompanied by the following:

A.2.1 Applicants shall supply details of the products per consignment for which approval is sought by providing the following information:

a) The applicable permits as required by DALRRD;

(b) Importers shall supply a health guarantee certificate (Annex C) containing evidence that imported products originate from a facility approved for export in the country of origin per consignment for which approval is sought. The NRCS may also request that specific testing be performed;

c) Details of the importer, product, bill of entry (SARS release), quantity, number of product and batch code(s), code list or bill of lading;

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d) The date and place where it will be available for inspection;

e) Name and contact details of a contact person;

f) The number(s) of the bill(s) of entry and the date authorized by custom officials; and

g) The voyage number of the cargo carrier (vessel, aircraft or registration number of vehicle).

A.2.2 Any reasonable additional information to clarify the application as requested by the NRCS.

A.2.3 The NRCS may for the purposes of inspection and verification of products, sample products according to the regulatory risk based sampling plans.

A.3 APPLICATION FOR APPROVAL OF EXPORT OF PRODUCTS

The applicant shall apply to the nearest NRCS regional office for approval of the product(s). The application shall be submitted at least ten (10) working days prior to the date on which it is needed. The application shall be accompanied by the following:

A.3.1 Where applicants require official approval for export or any other purposes, applicants shall supply details of products per consignment for which approval is sought by providing information with regards to the type of approval required (e.g. certificate of compliance, health guarantee to a particular country or other specific certification for official purposes).

A.3.2 The applicable permits as required by DALRRD.

A.3.3 Details of the markings as required by clause 5 of this Compulsory Specification used on the packed product(s).

A.3.4 Where required by the NRCS, guarantees that the product(s) complies with the prescribed testing requirements outlined in the Compulsory Specifications and referenced standards. The NRCS may also request that specific testing required by the importing country be performed.

A.3.5 Any reasonable additional information to clarify the application as requested by the NRCS.

A.3.6 The NRCS may for the purposes of inspection and verification of products, sample products according to the regulatory risk based sampling plans.

A.4 GRANTING OF APPROVAL

A.4.1 The NRCS shall issue an approvals document, as is applicable for the facility/ factory / establishment/ facility, imported products or products destined for export, to

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the applicant when all the requirements of this Compulsory Specification have been met.

A.4.2 The NRCS shall assign a unique number to each approvals document.

A.4.3 An approvals document shall be the sole proof of approval by the NRCS.

A.5 WITHDRAWAL OF APPROVAL

A.5.1 Any approval granted in respect of the product or the facility/ factory / establishment/ facility pursuant to this Compulsory Specification may be withdrawn, if compliance with the requirements of this Compulsory Specification has not been maintained. Re-application will be treated as new applications.

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ANNEX B

(NORMATIVE)

B.1 HEALTH GUARANTEES FOR EXPORT

B.1.1 The NRCS may provide health guarantees to authorities in countries to which products are exported at the request of exporters, if products have been handled, prepared, processed, packed, transported, refrigerated, stored, and quality are in accordance with the requirements of this Compulsory Specification and/or the requirements of the country of destination. In terms of requirements, all sections of the handling and processing chain are to be in compliance and, where appropriate, random samples may be taken for inspection and verification purposes.

B.1.2 Health guarantees shall only be issued for product from approved facility/ factories / establishments requiring such guarantees.

B.1.3 As required, finally prepared product/s shall be monitored on the basis of random testing and surveillance programmes.

B.1.4 For the issuing of health guarantees, it is required that for every consignment:

a) The product originates from facility/ factories / establishments approved by the NRCS in terms of the requirements of this Compulsory Specification;

b) All products and product codes are reflected in the request for export; and

c) The product covered by such a guarantee is fully traceable to its origin.

B.1.5 No health guarantees will be issued for foreign product where the anatomical wholeness has not been changed in South Africa.

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ANNEX C

(NORMATIVE)

C.1 HEALTH GUARANTEES FOR IMPORTED FISH AND FISHERY PRODUCTS REGULATED UNDER THE NRCS

(ON AUTHORITY'S OFFICIAL LETTERHEAD) **Reference no.**

Country of dispatch:

.....

Competent Authority:

.....

Inspection Authority:

I. Identification of products

True description of product:

.....

Scientific name:

.....

Presentation of product and type of treatment: .....

Batch Identification Marks /Code/s Type and Manner of Packaging:

.....

.....

Number of Packages/Units .....

Net weight ..... Gross weight .....

Temperature: - Chilled..... Frozen..... Ambient .....

II. Origin of Products

Name and address of approved factories/establishments/facility:

.....

.....

Approval number: .....

Place of loading/ dispatch:.....

III. Destination of products:

County of destination: .....

Port of entry .....

Transport details:.....Sea Freight / Air freight /Other

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Container number / Flight details: .....

Seal number/ Waybill number: .....

Consignor name and address: .....

.....

Consignee name and address:.....

.....

IV. Health attestation

The official inspector hereby certifies that:

1. The fish and fishery products specified above, have been farmed (where applicable), processed, packed and stored in a facility/ies approved by the Competent Authority.
2. The fish and fishery products comply/ies with the particular CODEX Standard for the specific product/s or where there is no such Standard, with the Compulsory Specifications/Technical Regulations legislated by the Republic of South Africa in terms of The National Regulator for Compulsory Specifications Act (Act No.5 of 2008) and contained and referenced in the Compulsory Specification.
3. The processing plant and where applicable, aquaculture farms specified above, is/are subject to regular inspection/audit by the Competent Authority in that country to ensure that production, processing practices and food safety systems are in compliance with requirements of the most updated versions of the general CODEX Principles for Food Hygiene and HACCP (CAC/RCP-1969) as well as with CODEX Code of Practice for Fishery Products (CAC/RCP 52-2003) and any animal health requirements to be controlled in terms of OIE Directives.
4. All products imported into the Republic of South Africa in terms of this Regulation shall comply with marking requirements as prescribed by the relevant national legislations.
5. The products above:
   5.1. are free from microorganisms or substances originating from microorganisms in amounts as prescribed by relevant national legislation;
   5.2. shall not contain any other substances in amounts that may present a hazard to human health in accordance with relevant national legislation.

Signed at: ..... Name and qualifications of official Inspector: .....
.....Signature of official Inspector: .....

Official Stamp with date: