



CANADIAN SUPPLY CHAIN FOOD SAFETY COALITION

COALITION CANADIENNE DE LA FILIÈRE ALIMENTAIRE POUR LA SALUBRITÉ DES ALIMENTS

Memorandum

Date: 30 November 1013

To: Colleen Barnes, Executive Director, Program, Regulatory and Trade Policy, CFIA
Lyzette Johnston, Director, Agri-food Division, CFIA

From: Albert Chambers, Executive Director

Subject: *Comments on A New Regulatory Framework for Federal Food Inspection: Discussion Document*

1.0 Canadian Supply Chain Food Safety Coalition

The Canadian Supply Chain Food Safety Coalition was formed in December 2000 and incorporated in 2007 to act as “a single strong voice for Industry along the food chain, with the public and government on industry-wide food safety issues”. Our membership is composed of national, provincial and regional associations involved in the agri-food industry and of individual companies that provide services to the industry. Our association members represent businesses at every link in the food supply chain from input suppliers through primary production, transportation, processing, manufacturing, distribution and importing to final marketers at export, retail and food service.

Our Vision is that:

Canada’s agriculture, aquatic and food industry will have a world-class reputation for producing and selling safe food.

Our mission is:

To facilitate, through dialogue within the food industry and with all levels of government, the development and implementation of a national, co-ordinated approach to food safety to ensure credibility in the domestic and international marketplaces.

2.0 Introductory Comments

Since its foundation, the Coalition has supported the modernization of Canada’s federal and provincial food safety laws and regulations to bring them in line with international expectations. In 2008, the Coalition launched a project to develop a national strategy¹. This work was completed in 2009. At the core of the strategy are four principles:

¹<http://foodsafetycoalition.ca/upload/File/National%20Strategy%20for%20Industry-led%20Food%20Safety%20Programs%20-%20Final%20Version%20-%2031%20March%202009.pdf>

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Principle #1: *Food safety is a shared responsibility of all participants in the supply chain, input suppliers, businesses involved with the production, processing, manufacturing, importing, distribution, retailing and marketing of food, all levels of government and consumers;*

Principle #2: *Governments at all levels, the agri-food industry and other stakeholders should foster and facilitate the development of an integrated, co-ordinated, and national approach to food safety policy and regulation based on sound scientific risk assessment and risk management principles and on international standards.*

Principle #3: *Industry and government food safety initiatives should encourage the implementation of HACCP and/or HACCP-based food safety systems by businesses all along the supply chain.*

Principle #4: *Food businesses, governments and other stakeholders have a responsibility to adequately resource, proactively manage, update, maintain and continually improve their individual and collaborative food safety systems and food safety initiatives.*

These principles form the basis of the Coalition's comments on the proposed regulatory framework for the *Safe Food for Canadians Act*.

The Coalition was pleased when the Government of Canada responded to its longstanding request to modernize the federal food safety legislation and regulations. We were an early and strong supporter of the new legislation during its consideration by Parliament.

Since its passage, the Coalition has been pleased, as well, to have had many opportunities to provide input into the development of the regulatory framework and looks forward over the coming months and years to continuing that involvement.

3.0 Key Issues

3.1 Food Commodity & Scope of the Regulations

- The Coalition notes that the definition of "food commodity" in the Act encompasses the full scope of commodities entering interprovincial, import and export trade as the ingredients of food or as more traditionally defined food

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| <p><i>"food commodity" means</i> <i>(a) any food as defined in section 2 of the Food and Drugs Act;</i> <i>(b) any animal or plant, or any of its parts, from which food referred to in paragraph (a) may be derived; or</i> <i>(c) anything prescribed to be a food commodity.</i></p> |
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- ***We believe that this has an impact on the scope of the regulations and that clarification is required as to the government's intentions.***
- ***The Coalition supports the most inclusive definition of the regulation's scope as it fully supports principle that all segments of the supply chain from input suppliers***

to final marketers have a responsibility to implement food safety management systems and that all those covered by the Act should be required to do so.

3.2 Preventive controls (Questions 9, 10, 11, 12)

- The Coalition supports the decision to ground the regulation and the concept of preventive controls in the internationally accepted food safety management approach based on hazard analysis and the Codex HACCP principles.
- We note that CFIA and industry have developed their food safety management programs and systems using common terms and definitions.
- ***The Coalition strongly recommends that the new regulations should continue to use the language that industry is comfortable with and not introduce new language to describe well established concepts.***
- We recognize that the proposed preventive controls, as whole, cover more than food safety and include, for example, controls related to quality, labelling, etc.
- We note that CFIA and industry have a clear current understanding about the meanings of “HACCP” and “HACCP-based” and suggest that these be clearly defined in the regulations. In particular, given CFIA’s recognition of various industry-led food safety programs as “HACCP-based” (i.e. developed through a generic hazard analysis that incorporates Codex principles and FSEP tools, etc), the Coalition recommends that this distinction be clearly stated in the regulations.
- We are concerned that, as written, the proposed regulatory framework does not require all segments of the supply chain involved in interprovincial, import or export trade to put in place a preventive control plan.
- We are also concerned that responses to queries during the consultations on the regulatory framework imply that intermediaries along the supply chain (e.g. 3rd party transporters, cold storage facilities, etc.) will not be required by the regulation to have in place preventive control plans, but that other regulated parties (e.g. manufacturers, etc.) would be required to include these parties in their preventive control plans.
- This creates a potential extra burden for these 3rd parties due to multiple demands from other regulated parties and ignores the fact that for some segments of the supply chain programs have been developed by industry and recognized by CFIA.
- The Coalition notes that the proposed preventive controls, as described in the text and in the two annexes, have deficiencies and appear to be less stringent than the requirements of food safety management system certification schemes currently operating in the Canadian and international marketplaces.
- This is particularly the case with respect to widely accepted concepts related to the “management system” components of a food safety management system (i.e. management responsibility and review, system verification activities, continuous improvement, etc.) which can have a significant impact on the stringency of the implementation of preventive controls (e.g. prerequisite programs, HACCP plans, etc.).
- ***We also note that the proposals are silent on other areas where preventive controls are required by other governments or certification schemes (e.g. supplier approval and intentional food contamination (i.e. defense, fraud, etc.) and suggest that these areas require further consultation with industry and possible inclusion in the regulations.***
- The Coalition believes that the regulations should promote “best practice” as an outcome in the development and implementation of preventive control plans and suggest that this

best practice should be grounded in international standards (both intergovernmental and voluntary).

- We note that the topic of validation is only briefly mentioned in the discussion paper. Validation presents considerable challenges for MSMEs with limited resources and access to bodies competent to conduct validations. Consideration should be given to establishing recognized “validation authority” as a resource based on the example of the US “process authority” concept.
- ***The Coalition requests that a discussion paper on validation (i.e. expectations, acceptable methods, competences, including inspector competences, etc) be released for consultation prior to the republication of the regulations in Canada Gazette Part I.***

3.3 Recognition of Industry-led Food Safety Programs (This issue is separate from the Systems Equivalence issue which applies to imported product and is more closely aligned with the discussion of Preventive Controls.)

- The Coalition notes that industry and governments in Canada have made significant investments in the development of on-farm and post-farm industry-led, HACCP-based food safety programs and established national recognition programs for these under the leadership of the CFIA.
- We also note that these programs have become important to Canadian users in both the domestic and export markets.
- These government recognized programs are strongly supported by the Coalition and its members. Industry considers them to be an integral part of the evolving Canadian approach to food safety, indeed they are excellent models for the government’s proposed approach to preventive controls and of compliance promotion.
- ***The Coalition requests that the regulations clearly indicate that these industry-led, HACCP-based programs have an on-going role in the new regulatory framework.***
- ***The Coalition also requests that consideration be given to implementing “earned recognition” for Canadian regulated parties participating in these programs or in similar food safety management programs either directly into the new inspection system or as an input to the Agency’s risk-based inspection models***
- ***We recommend that the recognition of industry-led food safety program be the subject of further consultations prior to the publication of the draft regulations in Canada Gazette Part 1 in 2014.***

1.4 Outcomes-based Regulations and Annexes 1 and 2 (Question 9, in part & the Outcome-based discussion paper)

- In principle, the Coalition supports the shift to outcome-based regulations.
- This approach presents significant challenges for food businesses and for the Agency with respect to compliance and the consistency of the Agency’s enforcement across the country. As noted by the Agency in its June 2013 discussion paper on the concept:

Outcome-based regulation places greater emphasis on specific and measurable outcomes and less emphasis on prescriptive provisions to achieve compliance aims. With this approach, the regulation specifies the required outcome and allows the regulated party to choose reasonable concrete measures to achieve that

outcome. It is based on the premise that by exercising due diligence, regulated parties and their management can apply cost effective, scientific, and/or technological measures to best achieve a given regulatory outcome. **As a result, instead of focusing on the processes or actions that regulated parties must take, the regulator defines the outcomes that regulated parties must achieve and how compliance with those outcomes will be measured.** The approach can facilitate incorporation of scientific and technological advancement, new production and processing methods, and changing consumer demands without compromising safety and health. (p. 3) [emphasis added]

- **During the June 4th workshop, the CSCFSC suggested that the Agency convene a working group (or similar forum) of officials, industry experts and experts from academia to explore in detail the outcomes-based approach in the Canadian context and make recommendations concerning its adoption in the new regulations. The Coalition requests that this suggestion taken up as a priority.**

3.5 Licensing (Questions 1, 2, 3, 4, 5, 6, 7, 8)

- The government's proposes to license some but not all regulated parties. The Coalition understands that this approach would not limit the scope of the regulatory requirements, that is, the obligation of all regulated parties to put preventive control plans in place (see 3.1 above).
- There is, however, confusion within industry on this matter.
- **The Coalition requests that the government clarify this matter prior to prior to the publication of the draft regulations in Canada Gazette Part 1 in 2014.**
- **The Coalition also recommends that the regulations clearly indicate which parties require licenses and which do not and further requests that the 2014 Canada Gazette Part I regulatory impact analysis statement (RIAS) provide the rationale for the inclusions and the exclusions.**
- **The Coalition notes that some regulated parties that government decides are not required to be licensed may have an interest in being licensed. The option for voluntary licensing should be available to these firms.**

3.6 Traceability (Question 15)

- The CSCFSC supports one-step forward/one-step back traceability as a regulatory requirement for all parties along the supply chain.
- We note that industry and governments have been working on a National Animal and Food Traceability System (NAFTS) but that to date most of this activity has been focussed on animal traceability and that the primary forum (IGAC – Industry Government Advisory Committee) has been similarly focussed. Not all stakeholders along the supply chain have yet been engaged.
- We also note that industry and government jointly developed the Can-Trace Data Standard, but that the status of this standard is uncertain.
- The proposals, as outlined in the Framework document, do not provide sufficient details for industry to comment on the proposed “format” that CFIA is contemplating for traceability requirements.

- ***The Coalition strongly recommends that CFIA circulate at the earliest possible date a detailed discussion paper on traceability and that consultations on this matter be completed prior to the publication of the draft regulations in the Canada Gazette Part 1 in 2014.***

3.7 Systems Equivalence/Comparability (Questions 13, 14)

- The Coalition supports the concept of systems equivalence at the country level and where possible on a bilateral basis.
- We note that in defining system equivalence, particular attention needs to be paid to the role that recognition of industry-led and other private standards have in the system of the country being compared. This links to the comments made above with respect to the recognition of Canadian industry-led food safety programs by CFIA and integral role that the Coalition believes these programs should play in the Canadian regulatory system.
- We note that CFIA already recognizes various government/industry certification schemes (e.g. California Leafy Greens Marketing Agreement) as preconditions for the import of product into Canada.
- ***The role of these programs in “systems equivalence” needs to be clarified and the technical and administrative standards to which they are held should be, at a minimum, equivalent to those set in the CFIA-led national on-farm and post-farm recognition programs.***

3.8 International Trade (Question 18)

- The Coalition supports, in principle, the exemption of products “not offered for sale in Canada” from the application of all the requirements under the regulations.
- ***The Coalition recommends that caution be exercised as to the requirements that will not be applied. The Coalition’s Vision is that “Canada’s agriculture, fisheries and food industry will have a world-class reputation for producing and selling safe food”. Exports that put this reputation at risk should not be permitted.***

3.9 Compliance Promotion

- Compliance promotion is a matter of significant interest to the Coalition’s members. Recommendations respecting implementation assistance, particularly to MSME’s is a priority in the Coalition’s 2009 National Strategy and was strongly recommended in our submissions to parliamentary committees prior to and during consideration of the new Act.
- ***The Coalition strongly recommends that the regulatory proposals provide for a staggered set of implementation dates for various firm sizes (i.e. for large, medium and micro/small firms) with respect to both licensing and preventive control plans.***
- ***The Coalition requests that CFIA update its information to stakeholders on the tools and approaches that it plans to put in place to assist firms in complying with the regulations at an early date in order to facilitate ongoing discussions.***
- ***The Coalition recommends that CFIA convene early in 2014 a working group (or similar forum) composed of industry stakeholders, federal government officials (e.g. CFIA, Health Canada, AAFC), provincial and territorial officials and representatives of academic, public and private food safety development and training centres to explore in depth the current “promotion/assistance” capacity***

and expected future needs and to make recommendations by 30 June 2014 to stakeholders concerning any changes thereto that are required (e.g. increased investment, re-organization of existing capacity, changes in curricula, etc.).

3.10 Overlap of Regulatory Initiatives

- The government, through the CFIA, has launched a number of regulatory initiatives that involve food safety, in addition its work on new regulations under the *Safe Food for Canadians Act*. Some have been concluded, others are in progress and still others are just starting. They include the inspection modernization, importer licensing, feed regulations, food labelling, compliance promotion and traceability.
- The Coalition has had a longstanding request of both the federal and the provincial governments that the modernization of food safety legislation and regulations should proceed in a co-ordinated fashion and be based on a national strategy.
- The Government of Canada has published the *Safe Food for Canadians Action Plan*, which is a first step towards a national food safety strategy and the CFIA has taken some steps to co-ordinate the initiatives that it has launched respecting food safety.
- Industry continues, however, to have serious concerns about the significant overlap and potential for duplication, false starts and confusion as a result of these initiatives and their staggered implementation over the next several years.
- ***The Coalition strongly recommends that the CFIA strengthen co-ordination of these initiatives and delay, in the case of the proposed regulations respecting importer licensing, their publication in the Canada Gazette. As an alternative, the Coalition recommends either that a separate discussion paper be published early in 2014 on licensing of regulated parties under the Safe Food for Canadians Act or that further elaboration of the importer licensing requirements be delayed and included in the draft regulations to be published as the next step in the regulatory development process.***

4.0 Conclusion

The Canadian Supply Chain Food Safety Coalition and its members wish to thank the Government of Canada and the Canadian Food Inspection Agency for the opportunity to comment on *A New Regulatory Framework for Federal Food Inspection: Discussion Document*.

If there are questions regarding the comments made herein, the Coalition would welcome the opportunity to discuss them further. The Coalition and its members also look forward to participating in the consultation opportunities that are planned for 2014 on this important initiative.

We also trust that the recommendations that we have made respecting additional consultations on key issues such as the recognition of industry-led food safety programs, outcome-based regulations, validation, traceability and compliance promotion meet with an early and positive response. These additional consultations would greatly enhance the understanding of both government and industry of the implications, challenges and opportunities ahead.