



CANADIAN SUPPLY CHAIN FOOD SAFETY COALITION

COALITION CANADIENNE DE LA FILIÈRE ALIMENTAIRE POUR LA SALUBRITÉ DES ALIMENTS

Written Submission for the Pre-Budget
Consultations in Advance of the 2019 Budget

Submitted by the Canadian Supply Chain Food
Safety Coalition

3 August 2018

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Recommendations:

Recommendation #1 – Increased Federal government funding for the implementation of the new food safety regulatory requirements. The implementation of the Safe Food for Canadians Act and Regulations and the related developments of the new Canadian approach to food safety will require significant new funding for the Canadian Food Inspection Agency.

Action Requested: The 2019 federal budget should clearly set out a realistic five (5) year plan starting with the 2019/20 fiscal year for effectively and fully resourcing the new responsibilities in food safety inspection.

Recommendation #2 – Increased Federal government financial assistance for Food Business Compliance with new regulatory requirements: The implementation of the new regulations by tens of thousands of Canadian food businesses will require significant investment both in the development of preventive control plans and in the upgrading of facilities and equipment.

Action Requested: The federal government should consider significantly increasing the funding available to assist Canadian food businesses implement the new regulations through the establishment of a new Safe Food for Canadians Act “implementation assistance program”.

Action Requested: The federal government should also consider other forms of financial assistance (e.g. temporary tax incentives, etc.) related to the new capital investments required to implement PCPs and other related food safety requirements. The availability of these incentives could be targeted to the planned implementation period (for example for five years starting 1 April 2019).

Recommendation #3: Harmonization of the statutory requirements in Canada with those in the United States respecting naturally occurring contaminants that are not injurious to human health

Action Requested: That the *Food and Drugs Act* be amended by the 2019 budget implementation legislation to improve the competitiveness of the Canadian food industry by bringing provisions relating to naturally occurring contaminants in food that do not ordinarily render it injurious to human health in line with those in the US Food, Drugs and Cosmetics Act.

The members of the Canadian Supply Chain Food Safety Coalition appreciate this opportunity to submit their views to the Standing Committee on Finance as a contribution to its consultations on the 2019 federal budget

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 with governments on industry-wide food safety issues”. As of July 2018, the Coalition has 27 member organizations representing 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.”

Implementation of Canada’s new Food Safety Regulatory Regime by the Canadian Food Inspection Agency

On 13 June 2018, 2199 days following the introduction of the *Safe Food for Canadians Act* in the Senate as Bill S-11, the government published the regulations under the Act in the Canada Gazette Part II. The regulations are slated to come into effect on 15 January 2019 and will be progressively enforced for various types of food business over the following two and one-half years through 15 July 2021.

This is the most significant revision of Canada’s food safety regime in over 60 years. The Canadian Food Inspection Agency (CFIA) estimates that the number of licensed food businesses will increase from the thousands to the tens of thousands. As we pointed out in our 2018 Pre-Budget Submission (1 August 2017), the CFIA stated in its 2017 *Regulatory Impact Analysis Statement* for the proposed *Safe Food for Canadians Regulations*¹:

For the CFIA, regulatory implementation would transform and modernize the Agency’s approach to food safety. However, the CFIA would not require any additional food safety program or inspection funding or resources from current levels, as the proposed Regulations would allow the CFIA to operate more efficiently and redistribute its food safety resources more strategically. That said, there would be some additional CFIA resources required for compliance promotion and industry engagement when the Regulations come into force.

The RIAS for the final version of the regulations repeated this assertion that the Agency would not have significant increased costs as a result of a significant increase in the number of inspections.

¹ Gazette du Canada Part I, vol. 151, no 3 page 289

*For the CFIA, regulatory implementation will transform and modernize the Agency's approach to food safety. However, the CFIA will not require any additional food safety funding or resources from current levels as the Regulations will allow the CFIA to operate more efficiently and redistribute its food safety resources more strategically. **Therefore, regulatory implementation will essentially be cost neutral for the CFIA** with the exception of compliance promotion and industry engagement, which were estimated to be an annualized cost of approximately –\$2.5 million. Note that as a result of CFIA compliance promotion and industry engagement the costs of dealing with importers at the border for CBSA will be negligible.²*

Given the experience of other federal departments and agencies in implementing new regulatory frameworks, the assertion that no additional resources will be required by CFIA is highly unlikely. For example, the implementation of the Natural Health Products Regulations by Health Canada between 2004 and 2011 required approximately 125 additional staff members for most of that seven-year period. The responsible directorate, the Natural and Non-Prescription Health Products Directorate, continues to receive thousands of product and site license applications and amendments annually and maintains both a policy and submission evaluation human resource contingent in 2018.

CFIA will not accomplish implementation of the SFC Regulations without significant increased human resources, including those required to support a yet-to-be-completed on-line application system for facility licensing and license renewal. In addition, verification of Preventive Control Plans that are a condition of granting and renewing a license for a food facility will require thousands of site inspections annually. By way of comparison, the US Food and Drug Administration completed fewer than 500 in the first year of its site audit activities under the implementation of the Food Safety Modernization Act. There is no question that CFIA will need additional resources. And, having sufficient resources to allow industry to comply with new or amended regulations is a requirement of federal regulatory policy.

Unless, the Agency is expecting to cover all these new costs through new user fees, new funds will be required from the treasury. **It is the Coalition's position that regulatory activities associated with food safety are a public good.** Industry has its roles and responsibilities for food safety and incurs significant expense in fulfilling these. A balance must exist between public and private expenditures. And, if we are to achieve the 2025 growth expectations set out in the 2017 budget, then any changes to the user fee system must ensure that our industry remains competitive.

Recommendation #1 – Increased Federal government funding for the implementation of the new food safety regulatory requirements. The implementation of the Safe Food for Canadians Act and Regulations and the related developments of the new Canadian approach to food safety will require significant new funding for the Canadian Food Inspection Agency. **Action Requested: The 2019 federal budget should clearly set out a realistic five (5) year plan starting with the 2019/20 fiscal year for effectively and fully resourcing the new responsibilities in food safety inspection.**

² Canada Gazette Part II, Vol. 152, No. 12, page 1856

Implementation of Canada's new Food Safety Regulatory Regime by the Canadian Food Businesses

In our Pre-Budget Submissions of 2015, 2016 and 2017, the Coalition highlighted the importance of the federal government making implementation assistance available to the micro, small and medium-sized businesses that would be required to implement the new regulations. We had hoped that the federal-provincial-territorial agreement that was to replace Growing Forward would include substantial funding assistance for this purpose. The Coalition was, therefore, disappointed when the terms of the Canadian Agricultural Partnership agreement were announced earlier this year. While there is limited funding available to food businesses that are asked *by foreign customers* to implement third party certification schemes – this is not directed, indeed would appear to specifically preclude – using these funds for developing preventive control plans under the new regulations. Furthermore, CFIA has apparently budgeted only \$2.5 million per year for compliance promotion in all its forms.

To meet these challenges and to ensure that the implementation of the *Safe Food for Canadians Act and Regulations* are realized within the timeframe proposed, the Coalition recommends:

Recommendation #2 – Increased Federal government financial assistance for Food Business Compliance with new regulatory requirements:

Action Requested: The federal government should consider significantly increasing the funding available to assist Canadian food businesses implement the new regulations through the establishment of a new *Safe Food for Canadians Act* “implementation assistance program”.

Action Requested: The federal government should also consider other forms of financial assistance (e.g. temporary tax incentives, etc.) related to the new capital investments required to implement PCPs and other related food safety requirements. The availability of these incentives could be targeted to the planned implementation period (for example for five years starting 1 April 2019).

Ensuring Competitiveness vis-à-vis Food Safety Requirements

The Committee has specifically asked for recommendations concerning the competitiveness of Canadian businesses. The proclamation of the *Safe Food for Canadians Act* regulations is a significant step forward in ensuring that Canadian food exporters are competitive. However, several very important differences between these regulations and those in the US and in the EU have been identified. The Coalition has secured a commitment from the Minister of Health that consultations on these will be initiated by early 2019.

One will require legislation and so it may be appropriate for it to be included in the 2019 budget legislation.

Section 4(1)(a) of the *Food and Drugs Act* contains an absolute prohibition of the sale an article of food that “has in or on it any poisonous or harmful substance”. This is effectively a “zero tolerance” rule for naturally occurring contaminants in food regardless of their health consequences. These naturally occurring contaminants include pathogens in the gut of a food animal or on the surfaces of fresh produce and mycotoxins on cereals, etc.. As a consequence, the food industry and regulators knowingly allow food products that do not and cannot meet regulatory requirements to reach Canadian consumers.

As new and improved detection methodologies and tests have been devised and introduced and as new hazards have been identified, “zero tolerance” is increasingly meaning just that. The “zero tolerance” mindset is also leading to negative approaches by industry and other stakeholders such as “don’t test, don’t tell”, the search for a technological “silver bullet” or a “you need to inspect everything” at the finished product stage.

The Coalition has since 2011 advocated that Section 4(1)(a) be amended to provide an exemption for the “*unintended presence of a naturally occurring substance that has not been deliberately or inadvertently added to the food if the amount of the substance present is less than the amount that would ordinarily render the food injurious to health*”. This amendment would;

- permit Health Canada and CFIA to systematically define food safety objectives for these hazards;
- encourage best practices on the part of industry in minimizing these hazards; and
- bring Canada’s regulatory requirements into line with those in Section 402 of the US Food, Drugs and Cosmetics Act which provides an exception where “*the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health*”.

Recommendation #3: Harmonization of the statutory requirements in Canada with those in the United States respecting naturally occurring contaminants that are not injurious to human health

Action Requested: That the Food and Drugs Act be amended by the 2019 budget implementation legislation to improve the competitiveness of the Canadian food industry by bringing provisions relating to naturally occurring contaminants in food that do not ordinarily render it injurious to human health in alignment with Section 402 of the US Food, Drug and Cosmetics Act.

Prepared 2 August 2018

Albert Chambers

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Canadian Supply Chain Food Safety Coalition