



National Farmers Union
Union Nationale des Fermiers



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Canadian Food Inspection Agency
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Dear Mr. Arsenault,

Re: National Farmers Union comments on proposed *Safe Food for Canadians Act* regulations

The National Farmers Union (NFU) welcomes the opportunity to provide input on the proposed regulations under the *Safe Food for Canadians Act*, per the notice in *Canada Gazette, Part I, Vol. 151, No. 3 — January 21, 2017*. Our remarks will focus on the need to revise the regulations to prevent undue hardship and loss for certain fruit and vegetable producers serving the domestic market and for the entire Canadian organic sector. We also call for an extension of the comment period on this regulation, considering its breadth and potential impact on Canada's food system. This submission is in addition to, and supports the submissions by the NFU in New Brunswick and by the NFU Direct Marketing Committee.

Impacts on Certain Fruit and Vegetable Producers

The proposed regulation would require all farmers who grow or harvest fresh fruit and vegetables and sell across a provincial boundary to be licensed. If they have gross annual food sales over \$30,000 they would also be required to develop and maintain a Preventive Control Plan (PCP), a type of a Hazard Analysis and Critical Control Point (HACCP) plan. They would also be required to keep, and prepare to produce on request, records of all customers they sold to, unless these were retail sales.

The Canadian Food Inspection Agency (CFIA) regulatory analysis says that a PCP must include:

- a description of the biological, chemical, and physical hazards that could contaminate the food, the measures used to prevent or eliminate those hazards, and evidence that the measures are effective;
- a description of critical control points (steps at which a control can be applied and that is essential to prevent or eliminate the hazard), their related control measures, and evidence that they are effective;
- a description of the critical limits (i.e. the limit at which a hazard is acceptable without compromising food safety) for each critical control point;
- the procedures for monitoring the critical control points in relation to their critical limits;
- a description of the corrective action procedures for each critical control point;
- a description of the procedures used to verify the implementation that the PCP meets the requirements of the SFCA and the proposed Regulations; and
- documents that demonstrate that the information has been recorded and that the PCP has been implemented with respect to the foregoing.

The rationale for requiring PCPs and traceability is to prevent food borne illness, and if it occurs, to be able to quickly find the source. The stated rationale for the exemption for producers with gross annual sales less than \$30,000 is that this is the same cut-off point used for exemption from GST registration. The rationale for applying this regulation to producers selling across provincial boundaries is that the CFIA does not have jurisdiction for matters that are strictly within a province. The CFIA proposes the widest possible application of the regulation in order to create a “level playing field” with our trading partners.

We believe the application of the PCP and traceability requirements is unfair to fresh fruit and vegetable producers who serve a local or regional market that happens to straddle provincial boundaries. These measures are unnecessary for food safety reasons, would impose onerous costs on some producers simply due to their geographic location, and would put farms with ecologically beneficial diversity at a competitive disadvantage compared with highly specialized operations.

According to the CFIA’s database of food recalls and allergy alerts, no food borne illness outbreaks have originated from fresh vegetables or fruits grown on Canadian farms.

Canada is increasingly dependent on imported fruits and vegetables. The value of our imported fresh vegetables is double what we export; we import seven to eight times the value of the fresh fruit we export. Many Canadians who purchase imported fresh fruits and vegetables could be served by local and regional Canadian producers instead. This would keep more of the money spent on food within our own economy, creating livelihoods for our farmers and in our rural communities.

According to a recent USDA GAIN report, *Canada Top Market for U.S. High-Value Agricultural Exports*, consumer-oriented U.S. agricultural exports to Canada are dominated by fruits and vegetables, with fresh vegetables valued at \$US1.8 billion (lettuce, turnip, onions, cauliflower and tomatoes occupying the top positions) and fresh fruits valued at \$US1.6 billion (strawberries and other berries, grapes, apples, oranges and cherries in the top spots). Except for oranges, Canadian farmers can grow all of these crops, and with the proper policy and regulatory framework, could certainly supply some of this multi-billion dollar market. The imposition of PCP requirements onto all fresh vegetable and fruit producers would increase their costs, making them less able to withstand competition from American imports, particularly in periods when the currency exchange rate favours US sales into Canada.

The PCP requirements for fresh fruit and vegetable production are not only unnecessary from a food safety perspective but they are particularly onerous for farms using on-farm biodiversity to promote beneficial ecological relationships (pest and disease reduction, soil building, symbiotic crop and livestock relationships, etc.) and to mitigate financial risk in the face of increasingly unpredictable growing conditions and volatile markets. One of agriculture’s biggest challenges is climate change. Mitigation and adaptation efforts need to support feeding our population while reducing fossil fuel use and building soil carbon. On-farm biodiversity is increasingly important to climate-friendly agriculture. As the complexity of the farm increases, the costs of developing and maintaining a PCP also increases. Thus, the proposed PCP requirement would create a perverse incentive, inhibiting adoption of beneficial farming practices based on ecological principles.

The proposed regulations seek to harmonize our regulations with those of our largest trading partner, the USA. We would recommend that if the *Safe Food for Canadians Act* regulations are to be applied to

the fresh fruit and vegetables sector that the exemption for small enterprises be harmonized with the American approach.

The proposed Canadian threshold for exemption, \$30,000 gross annual food sales, cannot be taken seriously. This is not adequate to provide a livelihood for a farm family, much less provide wages for employees. To put this into perspective, in July 2016, the federal government announced new Canada Child Benefit program aimed at lifting children out of poverty. Families with a net income (not gross revenue) of \$30,000 or less are eligible for the maximum level of support.

In the USA, the equivalent food safety program has less stringent requirements for small businesses with less than US\$500,000 average annual sales that sell over half of their production to “qualified end-users” (i.e. direct to consumers, restaurants, retail establishments) not more than 275 miles (445 kilometres) away. Instead of requiring a formal PCP, these businesses are able to design, monitor and document their own food safety programs and must be able to provide a report to the Food and Drug Administration if asked to do so. Note that the US does not worry about state boundaries, so farms would not be discriminated against on the basis of location as the proposed Canadian regulation would. Since these businesses are primarily direct marketing or supplying a local retailer, traceability in the event of a food safety incident would not be difficult. This approach would seem to provide an adequate way to reduce risk without imposing unnecessary costs.

Impact on the Organic Sector

Currently, the *Organic Products Regulations* are enabled under the *Canada Agricultural Products Act* which is the Minister of Agriculture and Agrifood’s responsibility. The proposed regulations would move them to the *Safe Food for Canadians Act*, under the Minister of Health. We believe that is inappropriate. Organic agriculture is primarily, but not solely, involved with food production. The Organic Products Regulations currently apply to food and drink intended for human consumption and food intended to feed livestock, including agricultural crops used for those purposes. They also apply to the cultivation of plants. There is the potential to expand the organic regulations in the future to make it possible to produce certified organic fibre crops, cosmetics and cut flowers, for example. The Organic Products Regulations govern how organic products are produced. Organic certification is not a food safety claim; it is a process claim. The enabling legislation should continue to reflect and support the process of certified organic agriculture production. The status quo, or if necessary, a stand-alone federal law to govern certified organic production would be more appropriate than placing organic regulations under the *Safe Food for Canadians Act*.

The proposed regulation would create new mandatory certification requirements on areas of the organic supply chain (deemed “various activities”) that are currently covered through an attestation process. All operators presently attest that they are compliant with the organic standards or they may voluntarily certify. The proposed regulation’s vague language would require all “various activities” such as processing, treating, handling, slaughtering, storing, and transporting of an organic product to be done by entities that are certified organic. This measure would have massive, negative impacts on Canada’s small but growing organic sector.

The current Organic Products Regulations allow facilities to provide these services to certified organic producers if they meet specified conditions designed to prevent contamination, admixture and/or fraud while handling the organic product. Certified organic producers must obtain and retain documentation to show that their products were handled in accordance with the regulation. The current rule makes it possible for organic producers to access needed infrastructure at a reasonable cost.

The proposed regulation would eliminate access to much of the organic sector's needed infrastructure. Businesses providing agricultural services would have to choose between certifying to serve their organic customers at the expense of the rest of their business or not certifying and losing their organic customers instead. Small businesses that currently serve both certified organic and conventional farmers would lose valued customers either way, perhaps pushing their revenues below a level where they could survive. The result would be large gaps in the value chain for certified organic production, and a weakened rural economy overall. With necessary links in the value chain not merely weakened, but gone, the organic production system would collapse.

Subsection 342 (3) of the proposed regulation would cause the farmer's or business's organic certificate to expire exactly 12 months after the date it was granted. This is wholly unworkable in practice and must be removed from the regulation. Currently, organic certificates remain valid unless they are suspended or cancelled. Accredited inspectors ensure that farmers and other certified organic businesses are in compliance with Canada's organic standards when they do their annual inspection of premises and documentation. If organic certificates were to expire on the same date each year there would be a high risk of products losing their status as a result of inadvertent and unavoidable difficulties in completing the inspection process at exactly the same time every year. The proposed regulation would create an unjust situation whereby important and necessary components of the organic value chain could be lost due to small delays outside of the control of certified entities.

Canada has organic equivalency agreements with other countries, including the USA. Canada imports significant quantities of organic food from the USA. The proposed regulation would put Canadian producers at a serious disadvantage, as the American organic rules do not require handlers of organic products to be certified, nor are their organic certificates subject to an arbitrary expiry date.

The NFU therefore recommends:

- Fresh fruit and vegetable production be exempt from the *Safe Food for Canadians Act* regulations.
- In the event fresh fruit and vegetable production is not exempted, a scale-appropriate accommodation that mirrors the USA's be adopted and applied to producers with up to \$500,000 average annual sales who sell direct to consumers or retailers within 275 miles (445 kilometres) regardless of provincial boundaries.
- The Organic Products Regulations be left under the Ministry of Agriculture, with the *Canada Agricultural Products Act* or a new stand-alone organic law as the enabling legislation.
- In the event the Organic Products Regulations is placed under *Safe Food for Canadians Act*, the section "Certification of Various Activities in Respect of Organic Products" be removed from the regulation.
- In the event the Organic Products Regulations is placed under *Safe Food for Canadians Act*, section 342(3) "Period of validity" be removed from the regulation.
- The CFIA should extend the comment period on this regulation to allow Canadians more time to provide input, considering its breadth and potential impact on our food system.

All this respectfully submitted by,

The National Farmers Union