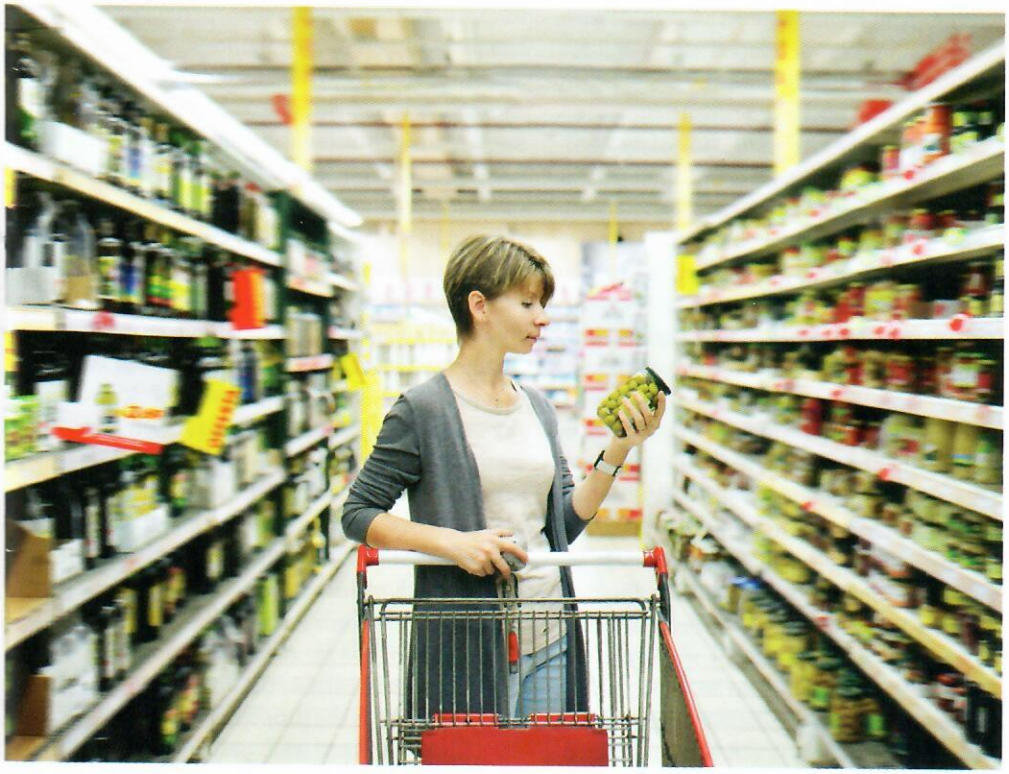
By Carol T. Culhane

The Journey towards SAFE FOOD FOR CANADIANS

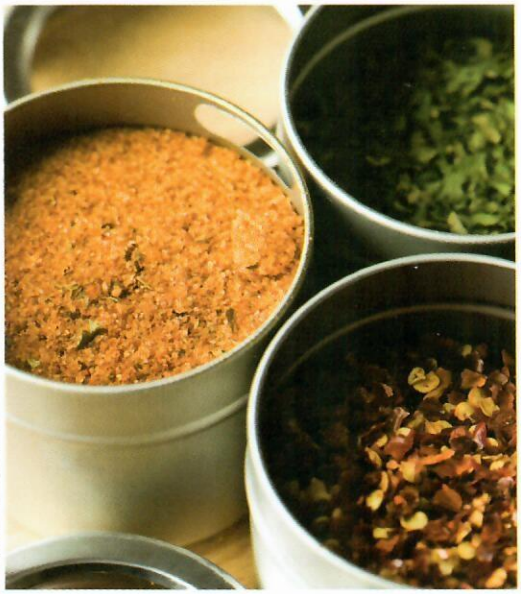
On January 21st, the long-awaited first set of proposed regulations under the Safe Food for Canadians Act (SFCA), which received Royal Ascent on November 22, 2012, was published in Canada Gazette I. The proposed SFCR reflect a radical change to the way that the Canadian Food Inspection Agency (CFIA) approaches the regulatory oversight of food safety within Canada, and an equally fundamental change to food safety regulatory compliance by all stakeholders.

The paradigm shift has arrived none too soon. Pan-Canadian outbreaks of listeriosis, E. coli and salmonella contaminated food remain in common memory. In 2008, a listeriosis outbreak spanned five provinces, cost the Canadian economy $242 million, sickened 57 people and claimed the lives of 23 individuals. An independent inquiry carried several recommendations for the CFIA. A nationwide 2012 E.coli contamination of ground beef involved the disposal of 5.5 million kg of product, and revealed that "the CFIA did not possess the power to compel regulated parties to provide adequate documentation in the event of a signifi¬cant food safety incident." In 2014, imported Salmonella-contaminated chia seeds, incorporated into 24 products sold in Canada, prepared by nine separate Canadian manufacturers, added a significant degree of complexity to the recall procedure due to the imported nature of the chia seeds.

Consequent to acceptance of their portion of responsibility, the CFIA embarked upon detailed scrutiny, critical analysis and a comprehensive makeover of their entire operation. Two internal causes for some of their failings were a misaligned organizational structure, and, the mandate to administrate disparate, silo-shaped, antiquated and impractical food regulations. When the CFIA came into existence in 1997, commodity-specific inspectors were transferred from Health Canada, the then department of Fisheries and Oceans, and, Agriculture and Agri-food Canada, and amalgamated along similar lines within the CFIA. Food safety, consumer protection and inspection programs have been applied to the food portion of the Food and Drug Regulations (FDR), a few sections of the Consumer Packaging and Labelling Regulations, and all the regulations under the Fish Inspection Act (FIA), Meat Inspection Act (MIA) and Canadian Agricultural Products Act (CAPA), the latter encompassing dairy, eggs, fresh and processed fruits and vegetables, honey, maple syrup products, organic food, ice wine, livestock and poultry carcasses, plus agricultural tribunal and arbitration procedures.



During a CFIA-led industry consultation in 2013 on the proposed regulatory amendments, participants were asked as to whether the CFIA's food inspectors should continue to be commodity specific, or, be generic food safety inspectors, assigned to any and all commodities under the CFIA's authority. To clarify the question, the CFIA was asked to comment on the correlation among frequency of inspection, size of operation and food safety violations. In response, the CFIA openly and humbly advised the hushed group that, much to their own chagrin, the CFIA had no data which correlates frequency of inspection with either size of operation or food safety compliance. With reserved pride, they modestly



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acknowledged their mastery of food recalls, adding that the ideal scenario is one in which a food recall would be a rarity rather than a daily occurrence.

The current restriction of the scope of the CFIA's facility inspection to federally-regulated commodities, such as meat, has generated significant gaps in food safety enforcement for imported and exported foods. Categories such as spices, snack foods, bakery products, fats and oils, and infant formula are prepared and imported without the same regulatory requirement as foods prepared in federally-registered establish¬ments, yet they are equally vulnerable to food safety hazards.

Lastly, the CFIA's familiarity with food manufacturers is limited to those who are federally-regulated, functioning within the aforementioned regulations, and, who either distribute their product interprovincially, export it or import it.

Key external factors include the ever-growing global scale of food trade, rendering containment of a food contamination incident within one country increasingly difficult. Consumer demand for more convenient, year-round access to ready-to-eat products may be fulfilled by food sourced from countries with inadequate food safety regulatory regimes.

Consequently, in the Agency's own words "The CFIA has embarked on a change agenda designed to strengthen how it administers and enforces regulations within its jurisdiction relating to food, animals and plants." The model is a single and consistent inspection approach that will be applied to all regulated food, whether imported, exported or prepared domestically for sale across provincial borders.

When the SFCR are ratified, the CAPA, FIA and MIA and the food-specific sections of the CPLA will be repealed, and 14 sets of regulations will be consolidated into one. As a result, there will be two Acts with enabling regulations pertinent to food sold in Canada – the Food and Drugs Act, and, the Safe Food for Canadians Act. In addition, the food safety and composition legislation specific to the three overarching and interconnected sectors inspected by the CFIA – food, plant health and animal health – has been integrated into one set of regulations.

The CFIA has developed the proposed SFCR in consultation with the USA's USDA and FDA, who have been constructing similar legislation under the Food Safety Modernization Act (FSMA). The overall goal is reciprocity between the two jurisdictions. Representatives of the USDA and FDA have held seminars for and consultations with industry stakeholders in Canada since 2013.

The proposed SFCR has 17 parts, covering trade, licenses, Preventive Control Plans, traceability, recognition of foreign systems, packaging and labelling, Standards of Identity, grades and grade names, seizure and detention, and organic food. Grades and Standards of Identity are included through the legislative instrument of "Incorporated by Reference" (IbR). In the view of the CFIA, the SFCA has been designed to "encourage innovation [....], and contains explicit authority to incorporate any document into its regulations, regardless of its source". An IbR is efficient and practical for all stakeholders in that it allows for prompt response to scientific and innovative improvements without the need for a formal and often lengthy regulatory amendment process. The FDR, administered by Health Canada, has had provision for IbR since 2012.

The proposed SFCR may be categorized into four cornerstones: i. identification, via mandatory licensing; ii. safety, via a mandatory Preventive Control Plan; iii. accountability, via traceability, and; iv. outcome-based regulations.

A license would be valid for a two-year period with a current proposed fee of $250 and will be subject to suspension or cancellation. It will be a requirement for food importers, preparers (includes fruit and vegetable primary producers) who export (captures internet sales) or trade interprovincially, and for people who slaughter food animals from which meat products for export or interprovincial trade may be derived. It requires a fixed place of business in Canada, or, in the case of an importer, a fixed place of business in a country with a food safety regulatory regime comparable to the SFCA. The range of the activity-based license spans manufacturing, processing, treating, preparing, preserving, grading, storing, packaging, labelling, importing and exporting, the data reporting of which is immediate and onsite, i.e., at the port of entry or at the facility. A license for meat has further requirements pertaining to handling and storing in the imported condition, procurement and holding of food animals, and slaughtering procedures. The catchment will include exporters currently not federally-registered with the CFIA because the products produced, such as cookies, snacks and cake mixes, are not required to be prepared in federally-registered establishments.

Labelling falls under the purview of licencing. Currently, there are hundreds of processed foods with Standards of Identity (SI), which define the composition and name of the standardized food. The CFIA is currently in consultation with stakeholders - Health Canada, Agriculture and Agri-food Canada, the Canadian General Standards Board, industry and consumers - as they review the utility and value to society of more than 500 SI. As a result, all the SI which currently exist in the CAPA, FIA and MIA are IbR into the proposed SFCR. Some are clearly outdated and pertain to foods

never seen in the Canadian marketplace, i.e. chicken croquettes, beef chopettes, while there is no SI for selections that many Canadians eat on a regular basis – donairs, Jamaican roti, shish kebab, meat-based pasta sauce and meat lasagna, to name a few. When the rationalization of SI through public consultation has concluded, those which fall under the authority of the CFIA will be assimilated into the SFCR by IbR. Subsequent CFIA SI priorities are to partner with Health Canada to pursue rationalization of SI for foods under the FDR and align these with the SI in the SFCR. The SI of a commonly consumed beverage – beer – is very near revision owing to the CFIA having received budget approval in 2014 to revise the beer SI in response to industry request. The beer SI currently resides in Division 2 (Alcoholic Beverages) of the FDR, administered by Health Canada. Consensus among stakeholders on the revised beer SI has been achieved, such that the CFIA's top SI priority is to complete the regulatory amendments of the beer SI. It remains to be seen if the beer SI will remain as a section within the FDR, or be incorporated into either the FDR or SCFR via IbR.

A Preventive Control Plan (PCP) created by the applicant and required to obtain a license, must identify the biological, chemical and physical hazards to which the food being prepared is subject, and, evidence-based, verified procedures specifically designed to control or eliminate these risks in the applicant's operation. The CFIA has established biological, chemical and physical criteria for all the commodities it administers, and included these in the SFCR as IbR. This first step in the PCP prioritizes and defines a food in terms of its food safety exposure. For example, fruit and vegetable producers and processors need be cognizant of possible contamination by E.coli and Salmonella, and accordingly, have documented evidence-based procedures, proven to be effective in their operation, to control or eliminate these contaminants. Similarly, fish importers and exporters need be aware of histamine levels in fresh fish, and have documented procedures to reduce the chemical to an acceptable level. The regulations further outline the scope of the PCP to include lot numbers on all products, a recall plan, sanitation, pest control, and non-food agents; conveyances and equipment; conditions respecting establishments; unloading, loading and storing; staff competency; personnel hygiene; communicable diseases and procedures for investigation, notification and complaints. The proposed SFCR include exemptions for some parties, such as businesses with equal to or less than $30,000 annual gross revenue, even though these operators will need to have preventive control procedures in place.

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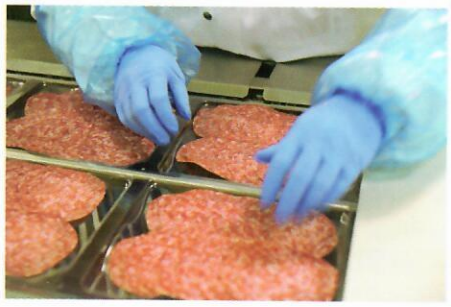

Traceability procedures will adopt the Codex Alimentarius template of ""one step forward, one step back" and will apply to every link in the supply chain. Electronic or paper records, which must be accessible in Canada within 24 hours, would identify the partner in an immediate for-ward transaction (e.g. a retailer or another food business), and the immediate backward supplier. Retailers would not be required to trace forward their sales to consumers.

Lastly, the proposed SFCR are "outcome based" rather than prescriptive, which is expected to deliver stronger and more consistent food safety enforcement. For example, pooled water is prohibited in a food manufacturing facility. The SFCR will specify "no pooled water", rather than the current regulatory approach which specifies drainpipe length, the evenness of the floor or the water-tightness of processing equipment, all designed to achieve the same outcome, but, may fail to do so given the wide variation among food manufacturing facilities.

The CFIA's Improved Food Inspection Model was ratified in 2014, such that a CFIA food safety inspector is a generic food safety inspector, trained and qualified to inspect any and all food preparation facilities. Food safety compliance inspections will be recorded instantly, onsite, in ruggedized tablets, resulting in faster and more-efficient reporting procedures.

The SFCR and pertinent information is available at this link: http://news.gc.ca/web/article-en.do?nid=1181099 Registration for CFIA-led information sessions is available at this link: http://inspection.sondages-surveys.ca/surveys/CFIA-ACIA/proposed-sfcr-info-session/?l=en The 90-day consultation period of the proposed SFCR expires April 21, 2017. Representations must cite the SFCR, Canada Gazette, Part I, and the date of January 21, 2017, and be addressed to Richard Arsenault, Executive Director, Domestic Food Safety Systems & Meat Hygiene Directorate, Canadian Food Inspection Agency, 1400 Merivale Road, Tower 1, Ottawa, Ontario K1A 0Y9 (tel.: 613-773-6156; email: CFIA-Modernisation-ACIA@inspection. gc.ca).

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