

THE FOOD SAFETY REGULATORY SYSTEM IN CANADA*

I. INTRODUCTION

Canada has developed a comprehensive food safety system that is rigorous enough to protect consumers today, yet responsive to meet the challenges of tomorrow. The system has the flexibility needed to keep pace with rapid changes in the nature of food, increased trade globalization and shifting public expectations.

Canada's food safety system adheres to three fundamental principles: the health of the population must remain paramount; policy decisions must be grounded on scientific evidence; and all sectors and jurisdictions must collaborate to protect consumers.

Canada's food safety system operates in a multi-jurisdictional context involving federal, provincial/territorial and municipal authorities. Food safety is a shared responsibility among all stakeholders in the food continuum (e.g., feed manufacturers, primary producers, food manufacturers/operators, distributors, retailers, consumers). Consequently, collaboration and cooperation from all stakeholders with federal and provincial/territorial authorities are essential to building and maintaining a strong food safety system. Governments collaborate in policy and operational areas of shared jurisdiction, such as food inspection, to provide effective and efficient program delivery, and industry associations, academia and consumers contribute to this work.

II. OVERVIEW OF FOOD SAFETY SYSTEMS

The Government of Canada has a fundamental, but not exclusive, role in health protection including food safety. Collaboration of all stakeholders in the food continuum is essential to ensure a comprehensive and integrated approach to the availability of a safe and nutritious food supply. Industry has the primary responsibility for the safety of its products and for providing appropriate information to permit consumers to make informed choices. Government has the primary responsibility for identifying health risks associated with the food supply, assessing the severity and probability of harm or damage, and developing national strategies to manage the risks. Consumers have the right to be informed about the health risks and benefits associated with food and have the responsibility to use this information.

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Legal Framework

The main federal legislation covering food safety is the *Food and Drugs Act*. This *Act* prohibits the manufacture or sale of all dangerous or adulterated food products anywhere in Canada. The *Act*, which derives its authority from criminal law, is supplemented by regulations designed to ensure the safety and nutritional quality of foods. Other federal trade and commerce legislation may reference the *Act* and stipulate additional requirements. Examples include the *Canada Agricultural Products Act*, *Meat Inspection Act*, *Fish Inspection Act*, *Seeds Act*, *Fertilizer Act* and *Feeds Act*. Also contributing to the regulatory framework is the *Pest Control Products Act*. As it is understood that animal diseases have the potential to impact the safety of food and products originating from farm animals, the *Health of Animals Act*, administered by the Canadian Food Inspection Agency (CFIA), is also an important piece of legislation to provide further assurance of the safety of the food supply.

Health Canada (HC) is developing a proposal to renew the federal health protection legislation. A new health protection legislation would replace a number of *Acts* aimed at addressing risks to health, including the *Food and Drugs Act*. As HC and the CFIA have shared responsibilities regarding food safety, they are particularly interested in the development of specific provisions. One in particular is the concept of a general safety requirement, which would achieve two important objectives: to better define the responsibilities of the manufacturer (including importer) of a product and the other players in the chain of supply; and to ensure that the food control system has the legal authority to consistently and effectively address risks to health throughout the life-cycle of the product.

HC is responsible for administering the food safety provisions of the *Food and Drugs Act and Regulations*. The CFIA is responsible for enforcing the *Act and Regulations* and for the administration and enforcement of the federal trade and commerce legislation regarding food safety and quality. In an effort to streamline enforcement legislation currently found in a variety of commodity statutes, the CFIA has tabled before Parliament the new *Canadian Food Inspection Agency Enforcement Act* that would provide statutory authority respecting the inspection powers of the CFIA and the enforcement of *Acts* under its responsibility.

Provinces and territories enact legislation governing foods produced and sold within their own jurisdictions. These laws are complementary to federal statutes. There is also legislation to govern animal husbandry, agricultural practices and the licensing of meat and dairy establishments selling their products intra-provincially. The inspection programs of the provinces and territories apply to food-processing and food-service establishments, food retail, hospitals, nursing homes, community kitchens and food-banks within each province. Provincial and territorial legislation also authorizes municipalities to enact bylaws affecting food inspection.

Because legislative power in Canada may not be delegated from one level of government to another, governments collaborate in areas of shared jurisdiction, such as food inspection, and establish partnerships to ensure effective and efficient program delivery.

Institutional Structure

The federal regulatory agencies with responsibility for food are HC and the CFIA. In addition, the Public Health Agency of Canada (PHAC) and Agriculture and Agri-Food Canada (AAFC) play an important support role.

HC sets standards and policies governing the safety and nutritional quality of all food sold in Canada. Specifically, HC engages in research, risk assessment, pre-market review and evaluation of all issues related to food safety and nutrition, and regulation and registration of pest control products and veterinary drugs. To ensure the federal system is one with checks and balances, HC has responsibility for assessing the effectiveness of the CFIA's food safety activities.

The CFIA is responsible for enforcing those policies and standards set by HC, as well as all federally mandated food inspection, compliance and quarantine services. The CFIA designs, develops and manages inspection related programs and service standards, including supplying laboratory support. It also negotiates partnerships with other levels of government, as well as industry and trading partners, with respect to inspection and compliance programs, and supplies laboratory support for inspection, compliance and quarantine activities.

The PHAC is responsible for surveillance of food-borne, water-borne and enteric human illnesses and provides comprehensive expertise and support for epidemiological and microbiological investigations. These surveillance activities provide a system for early detection and warning, and a basis for evaluating food safety control strategies.

The mandate of AAFC is to provide information, research and technology, and policies and programs to achieve security of the food system, health of the environment and innovation for growth. Many CFIA programs are based on policies developed with AAFC. AAFC works with the agriculture industry to develop capacity, tools and practices through various incentives and programs towards furthering food safety objectives.

Complementary provincial/territorial legislation governs food produced and sold within their jurisdictions, including for food-safety surveillance, investigations and compliance. Often, the provinces and territories are the first to be notified of potential food-borne illnesses, and thus play an integral role in the food safety system. The success of the system depends on close working relationships among federal, provincial and territorial authorities, industry and consumers.

Operational Linkages

HC and the CFIA have established a Memorandum of Understanding (MOU) that outlines their respective roles and responsibilities and establishes principles and mechanisms for an effective working relationship. A "Roles and Responsibilities Framework" details the HC/CFIA responsibilities for each program element of the federal food safety and inspection system. Collaborative mechanisms have been established between HC and the CFIA through the HC/CFIA Joint Food Safety and Nutrition Committee, which provides overall guidance and

leadership on policies and strategic directions to the federal food safety and nutrition regulatory system. The Committee is at the senior management level, and is complemented by on-going cooperation and collaboration at all levels. The CFIA has also established MOUs with provincial and territorial counterparts on shared responsibilities, such as inspection activities and food-borne illness investigations.

Risk Analysis Process

The risk analysis process consists of three components: risk assessment; risk management; and risk communication and is the foundation upon which Canada's food safety policies are based. HC's Decision-Making Framework and the CFIA's Risk Analysis Framework provide a structured, systematic approach to identifying, assessing and managing health risks, and emphasize stakeholder consultation and communication. They are compatible and consistent with approaches developed at the international level by the Codex Alimentarius Commission and with the guidance on food safety risk analysis provided by FAO/WHO.

The risk assessment process includes a rigorous and objective assessment of all available information, including scientific research that is reproducible, the identification and fair weighting of scientific uncertainty and the review of recent advances in knowledge. It is a key part of the decision-making process as it provides an estimate of the level of risk and helps identify possible options for risk management.

Risk management is the process of making and implementing decisions designed to mitigate risks identified by the risk assessment process. The Government of Canada accomplishes this through the establishment and enforcement of legislative and regulatory requirements or the application of non-regulatory options such as guidelines, advice and education, and promotion of voluntary compliance by industry. The risk management process considers socio-economic factors such as consumer concerns and demographics. In addition, it recognizes the need to participate in a global marketplace and collaborate on efforts to harmonize approaches internationally.

The application of precaution is an intrinsic part of Canada's risk analysis process as there are circumstances where the scientific evidence available to risk assessors is incomplete or insufficient, which results in scientific uncertainty in the outcomes of the risk assessment. Uncertainties in scientific data are carefully considered in assessing the level of risk to which the public may be exposed and in selecting an appropriate risk management strategy where there is credible evidence that serious or irreversible adverse effects on human health may occur. As the concept of precaution is also applicable to risks other than food safety, the Government of Canada established *A Framework for the Application of Precaution in Science-Based Decision-Making About Risk*. This framework provides guiding principles for the application of precaution to science-based decision-making for the protection of health and safety and the environment and the conservation of natural resources.

Risk communication is an inherent element of Canada's risk analysis procedure. Canada recognizes that the exchange of information is a key element in successfully mitigating health

risks and that risk communication is a two-way process.

Consultation

Consultation is an integral part of policy development in Canada, including the development of food safety policies and regulations. Mechanisms have been established to provide opportunities, not only for the exchange of information but, where possible, for participation in the decision-making process. Various forms of consultation and communication are employed on issues related to food safety, including direct mailing, multimedia and stakeholder meetings. Similar consultations are conducted with Canada's major trading partners to assess the international impacts of such policies and standards and to work towards international harmonization. Canada notifies its trading partners of regulatory changes through the WTO notification system. Publication in the *Canada Gazette* remains the official government mechanism for notification of proposed regulatory change.

Enforcement and Compliance

A key role of the CFIA in the Canadian food inspection system is to manage risks to human health through its compliance and enforcement activities. Once an appropriate risk management approach is selected, the CFIA works with partners/stakeholders to implement it in an effective manner. The CFIA verifies industry compliance with regulations through activities such as establishment inspections, product testing and food safety investigations. The CFIA has in place emergency response procedures aimed at protecting consumers from food involved in accidental or intentional events. It can act rapidly and effectively in response to emergencies impacting food safety, such as recalling unsafe food from the marketplace.

The CFIA has a network of 21 laboratories providing routine analytical services, research, methods development, accreditation and scientific advice in support of food safety, animal health and plant protection. The CFIA's diagnostic capabilities and scientific expertise also contribute to the federal government's efforts to strengthen Canada's preparedness for, and response to, potential terrorist threats.

The implementation of Hazard Analysis Critical Control Point (HACCP) systems by industry along the food continuum, where industry has primary responsibility for monitoring its products and processes, is strongly promoted. The implementation of HACCP systems allows the increasing use of audit approaches by the CFIA. Audits are based on risk and supported by strong government compliance and enforcement tools. The degree of ongoing government oversight and intervention depends on each company's history of compliance and the risk associated with its products. AAFC, through the Canadian Food Safety and Quality Program, encourages the development by industry of HACCP-based food safety systems.

The CFIA provides training programs across Canada to ensure key technical competencies for CFIA employees. Priorities are aligned with the key priorities of CFIA programs. As a result, inspectors across the country receive the same training, resulting in consistency of application.

Food-borne Disease Surveillance and Related Systems

Regulatory bodies responsible for human health and food safety are responding to foodborne illness outbreaks that cross jurisdictional boundaries through the development of enhanced foodborne illness surveillance networks, and through collaboration in multi-jurisdictional outbreak investigations.

Enteric, Food and Waterborne Disease Outbreak Surveillance is a system to provide national data on enteric, food and waterborne outbreaks; to identify risk factors associated with enteric, food and waterborne diseases; to contribute to fact-based development of disease prevention and control programs; and to contribute to studies on the burden of disease and to international surveillance of enteric, food and waterborne diseases. Data may also be used to identify high-risk contaminated food and water products.

The *Canadian Integrated Outbreak Surveillance Centre (CIOSC) Enteric Alerts* is an effective surveillance communication tool, established to improve surveillance and identification of multi-jurisdictional outbreaks, including enteric outbreaks. It is a secure web-based application used for posting alerts concerning confirmed or suspected enteric outbreaks under investigation and allows for public health authorities to read the alerts and make contact with those responsible for the investigation. The ability of CIOSC to share information in real-time across Canada and among multiple public health jurisdictional authorities, demonstrates the concept of a national surveillance resource.

Partnerships and Support Systems

All stakeholders in the food continuum share specific responsibilities for food safety and their collaboration is essential to ensure a comprehensive and integrated approach to the availability of a safe and nutritious food supply. Collaboration and co-operation among governments, industry and consumers is a key element in strengthening the Canadian food safety system.

Collaboration among the different levels of government is facilitated by the creation of the new *Federal/Provincial/Territorial Food Safety Committee* which provides a balanced health and agriculture perspective to manage national food safety issues along the food continuum. The key objective of this committee is to provide federal/provincial/territorial government leadership to strengthen Canada's food safety system by coordinating the development of national food safety policy options and implementing initiatives to achieve national food safety goals and priorities. Priorities for this committee will be identified through the current development of a proposed national strategy for safe food.

One example of a partnership among federal, provincial and territorial governments is the *Food-borne Illness Outbreak Response Protocol*. The *Protocol* details an integrated approach in response to national food-borne illness outbreaks, and regional outbreaks causing high levels of severe morbidity or mortality. At the federal level, the PHAC, HC and the CFIA have legal responsibilities for responding to foodborne illness related events. The *Protocol* ensures that all responsible agencies are notified promptly and work collaboratively to mitigate and contain risks.

Government-industry collaboration includes development and maintenance of food safety programs along the food continuum. AAFC provides funding opportunities for national industry associations to develop programs for food safety, quality and traceability throughout the total food chain (on-farm and post-farm), including funding for food safety projects at the national, multi-regional and regional level. These funding initiatives encourage industry to develop and implement national systems based on the use of HACCP principles/practices.

Government-academia and government-consumer collaboration include the *Expert Advisory Committees* and the *Canadian Partnership for Consumer Food Safety Education*, respectively. The former are established to assist in program or policy decisions through the provision of expertise in food safety and the latter provides consumers with information for safe food handling to reduce the number of food-borne illnesses and deaths associated with microbial contamination of food.

III: CONCLUSION

Collaboration and cooperation of all stakeholders along the food continuum is a key element for strengthening Canada's food safety system. Intergovernmental collaboration and partnerships with stakeholders, operating within a risk-based approach, ensures a comprehensive and responsive food safety system that protects Canadians from health risks associated with foods.

Website References

Health Canada: http://www.hc-sc.gc.ca/fn-an/index_e.html

CFIA: <http://www.inspection.gc.ca/english/toce.shtml>

Health Canada's Decision Making Framework: http://www.hc-sc.gc.ca/sr-sr/advice-avis/decision/index_e.html

CFIA's Risk Analysis Framework: <http://www.inspection.gc.ca/english/fssa/ris/fracade.shtml>

Foodborne Illness Outbreak Response Protocol

http://www.hc-sc.gc.ca/ed-ud/respond/food-aliment/index_e.html

AAFC mandate: http://www.agr.gc.ca/aafc_e.phtml

Agriculture Policy Framework website: http://www.agr.gc.ca/cb/apf/index_e.php

Canadian Food Safety and Quality Program website: http://www.agr.gc.ca/fd_al/cfsqp-pcsqa/index_e.php?section=appl_dem&page=fd_frm_01

PHAC website: http://www.phac-aspc.gc.ca/new_e.html