



August 26, 2015

Subject – Comments submitted to Health Canada to the proposed ***Regulations Amending the Food and Drug Regulations — Nutrition Labelling, Other Labelling Provisions and Food Colours in Canada Gazette, Part 1***, Vol 149 , n° 24 June 13, 2015

Comment closing date: August 26, 2015

Comments submitted electronically to:

Dino Covone, Senior Policy Analyst,
Office of Legislative and Regulatory Modernization,
Policy, Planning and International Affairs Directorate,
Health Canada, Holland Cross, 1600 Scott Street, Tower B, 5th Floor,
Address Locator: 3105A, Ottawa, Ontario K1A 0K9
(fax: 613-941-7104; email: LRM_MLR_consultations@hc-sc.gc.ca)

Dear Mr. Covone,

The Canadian Produce Marketing Association (CPMA) and its members strongly support the regulatory modernization efforts as part of the *Safe Food for Canadians Act* and is pleased to provide comments on the Canadian Food Inspection Agency (CFIA) proposed *Safe Food for Canadians Regulations*. CPMA would like to commend the Government of Canada and the CFIA for the opportunity to provide feedback on the draft of the proposed *Safe Food for Canadians Regulations* prior to publication in *Canada Gazette, Part 1*.

Based in Ottawa, Ontario, the Canadian Produce Marketing Association (CPMA) is a not-for-profit organization representing companies that are active in the marketing of fresh fruits and vegetables in Canada from the farm gate to the dinner plate. CPMA members cover various industries, integrating all segments of the fresh produce industry, including major growers, shippers, packers and marketers; importers and exporters; transportation and logistics, brokers, distributors and wholesalers; retailers, fresh cuts and foodservice distributors, operators and processors. CPMA is proud to represent around 800 domestic and international members who are responsible for 90% of the fresh fruit and vegetables sales in Canada.

CPMA and its members strongly support the current regulatory modernization efforts of the Government of Canada to revise the *Food and Drug Regulations* and the use of “incorporation by reference” authority to “ensure that future updates can be made more efficiently”. (p. 1197 ***Canada Gazette, Part 1, Vol 149, n° 24 June 13 2015***)

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importers and exporters; transportation and logistics, brokers, distributors and wholesalers; retailers, fresh cuts and foodservice distributors, operators and processors. CPMA is proud to represent over 800 domestic and international members who are responsible for 90% of the fresh fruit and vegetables sales in Canada.

Below please find CPMA's comments on : ***Regulations Amending the Food and Drug Regulations — Nutrition Labelling, Other Labelling Provisions and Food Colours in Canada Gazette, Part 1, Vol 149 , n° 24, June 13, 2015.***

General Comments:

1. Health Canada should continue with a collaborative and inclusive approach to total sector involvement in the development of any regulation, policy and programs.
2. There should be continued early engagement of stakeholders for input to development of any regulations, guidance information and tools, with ample time to comment and provide feedback for consideration by policy and regulatory authorities.
3. Regulatory modernization provides the opportunity for regulations and proposed changes to further align to the extent possible with international standards and Canada's trading partners.
On p.1203, in the 2nd paragraph it states that "Health Canada will continue to monitor developments in the U.S. proposed rule and give consideration to any changes made to it."
CPMA supports and encourages continued negotiation with the USFDA who have recently released a supplemental proposed rule (Food Labeling: Revision of the Nutrition and Supplement Facts Labels; Supplemental Proposed Rule To Solicit Comment on Limited Additional Provisions with a Comment period ending October 13 2015)
Alignment (harmonization to the degree possible) in labelling is important to ensure:
 - reduction in trade barriers
 - reduction in the cost of packaging for the domestic and foreign industry players who are preparing product for both domestic and international trade and putting Canadian consumers at a disadvantage to enjoying a wider range of new products and value added packaging
 - availability of affordable fresh fruits and vegetables year round for Canadian consumers
4. Regulations should not be so onerous as to negatively impact the ability of the produce industry to provide a variety of fresh fruits and vegetables year round, in both packaged and bulk formats, to all Canadian consumers at an affordable price.
5. CPMA supports Health Canada's commitment to ongoing public education and the proposed five year coming-into force period to allow time for industry to comply with regulatory changes and use up existing stocks of printed labels (Implementation p.1220).
NOTE: Health Canada will also need sufficient funding and resources for education of industry on the new regulations and changes to the NFt.
6. Education/communication is a crucially important point to ensure compliance, including an understanding of the regulations and the guidance. Health Canada should work collaboratively with industry to determine an effective means of accomplishing this.
7. CPMA supports the commitment that "During the transition period, when manufacturers may apply both the former Regulations and the new Regulations, the CFIA would train its staff across Canada, update inspection and compliance promotion tools (for example the Nutrition Labelling Compliance Test, the Industry Labelling Tool, training material), and carry out compliance promotion activities" (Enforcement p1220) This is crucial to consistent and fair enforcement across the country.
8. CPMA strongly supports "the proposed amendments that would allow the claim that fruits and vegetables reduce the risk of heart disease, thereby allowing Canadians to be informed of the health benefits of eating fresh fruits and vegetables". (p. 1193).

9. CPMA strongly supports and commends Health Canada for the proposal allowing approved nutrient content or health claims to be made on the labels of prepackaged fresh fruits and vegetables without triggering the requirement to provide an NFt.
 - a. The amended regulations must also insure:
 - that this exemption is extended to approved health or nutrient content claims etc., made on or about bulk (unpackaged) fresh fruits and vegetables or combinations of them, via stickers, advertisements, brochures, information pamphlets, signs etc., including when made available at point of sale, whether by the manufacturer or another party such as a marketing board.
 - that nutrient information is also not required on an advertisement, brochure, pamphlet, signs etc. when approved health or nutrient content claims or nutrition information is presented for fresh fruits and vegetables, or combinations of them, whether prepackaged or non-prepackaged (bulk).
 - b. We feel this will promote consumer claim uptake about the benefits of eating fresh fruits and vegetables and ultimately lead to a desired increase in consumption of fresh fruit and vegetables in Canada.
10. In light of all the regulatory changes coming in the near future, it is crucial that all regulatory proposals and changes affecting food products (e.g. labelling, licensing, etc.) be considered concurrently to prevent costly, disruptive and entirely avoidable impacts on business and consumers.

Technical comments:

5. The Regulations are amended by adding the following after section B.01.008:

B.01.008.1 (1) (e) – “Information appearing on the label of a prepackaged product according to sections B.01.008.2 to B.01.010.4 shall be shown: (e) in a type size of at least 6 points with leading of at least 7 points, except that if a nutrition facts table appears on the label, the type size and leading must be at least the same as those required for nutrients that appear in the nutrition facts table.”

- As was our comment to the recent on line Labelling Consultation: “For the common name, when labelled, there should be no requirement for upper and lower case; minimum type size should be the same as proposed for all other (required) labelling information. The minimum font size of 1.6 mm proposed for other labelling information should be extended to net contents, grade designations, and country of origin for all commodities. Currently for fresh fruits and vegetables, the type size requirement for net contents, grade name and the country of origin declaration is according to the area of the principal display surface. The requirement for these declarations should be the same as for other required information and consistent with all commodities.”
- Due to the unique nature of products and packaging used for prepackaged fresh fruits and vegetables (e.g. convenience packaging innovations include packaging of smaller individual servings) many labels used for fresh fruits and vegetable may not be able to accommodate the proposed minimum letter heights for all the required information.
- Consistent with General comment # 4 above and our comments submitted to the recent CFIA on-line Food Labelling Modernization Consultation, CPMA feels that the minimum font size requirement of 1.6 mm, consistent with the present minimum letter height size requirement for most required information on a consumer package should be extended to the ingredients in the Ingredient list.

B.01.008.2 (1) (b) despite paragraph B.01.008.1 (1) (d), in bold type;
(c) despite paragraph B.01.008.1 (1) (e), in a type size that is 2 points larger than the type size used to show ingredients in the list, except that if the available display surface of the prepackaged product is less than 100 cm², the title may be shown in type that is at least the same size as the type size used to show ingredients in the list; and”

- CPMA proposes that the requirement for bolding of specific information should satisfy the desired emphasis for a particular labelling element and a 2 point increase in type size is not necessary for the title: Ingredients

B.01.008.2 (2) (c) “separated by a bullet point, unless the product is sold only in the retail establishment where it is packaged and is labelled by means of a sticker, in which case ingredients may be separated by a comma”

- As mentioned in our 2014 submission to the consultations on Nutritional labelling CPMA has concern with the change to dots between ingredients versus the current approach using commas; commas are an international standard and the need to maintain or establish a harmonized approach with the international community is essential to reduce potential trade and cost barriers.

16. (1) Subsection B.01.401 (1) of the Regulations is replaced by the following:

B.01.401. “(1) Except as otherwise provided in this section and sections B.01.402 to B.01.406 and sections B.01.467 to B.01.469, the label of a prepackaged product shall carry a nutrition facts table that contains only the information set out in column 1 of the table to this section expressed using a description set out in column 2 and in the unit set out in column 3 and in the manner set out in column 4.

(1.1) For the purpose of subsection (1), the amount of the serving of stated size set out in a nutrition facts table for a prepackaged product, as expressed in the metric unit, shall be used as the basis for determining the information appearing in the nutrition facts table in respect of the energy value and nutrient content of the product.

(1.2) The percentage of the daily value for a mineral nutrient shown in the nutrition facts table for a prepackaged product in accordance with subsection (1) shall be established on the basis of the amount, by weight, of the mineral nutrient in the serving of stated size for the product, rounded off in the applicable manner set out in column 4 of the table to this section.

(2) Subparagraph B.01.401 (2) (b) (ii) of the Regulations is repealed.

(3) Subparagraph B.01.401 (2) (c) (i) of the Regulations is replaced by the following:

(i) a fresh vegetable or fruit or any combination of fresh vegetables or fruits without any added ingredients, an orange with added food colour or a fresh vegetable or fruit coated with mineral oil, paraffin wax, petrolatum or any other protective coating,”

- CPMA supports these changes allowing a nutrient content or health claim, health statements, logos, symbols, seal of approval or marks to be made on the label of prepackaged fresh fruits and vegetables without triggering the requirement to provide an NFt.
 - a. Consistent with the above mentioned exemption and General comment # 9a, the amended regulations must also insure that when approved health or nutrient content claims etc., made on or about bulk (unpacked) fresh fruits and vegetables or combinations of them, via stickers or advertisements, brochures, information pamphlets, signs etc., including when made available at point of sale, whether by the manufacturer or another party such as a marketing board, that nutrient information is also not required on the advertisement, brochure, pamphlet, signs etc. (Examples of other amendments required to provide this exemption for fresh fruits and vegetables other than prepackaged, and for their marketing materials: **Sections B.01.312, B.01.502, B.01.503** (Please note

these are examples of where amendments are needed, but may not be limited to just these sections to ensure exemption for all fresh fruits and vegetables and their marketing materials).

- For clarity, regulatory amendments are **also** required for the following products and marketing materials to also allow them exemption from nutrition information when approved health or nutrient content claims are made on or about them:
 - Bulk fresh fruits and vegetables with stickers
 - Bulk container used at retail
 - Advertisements, brochures, pamphlets, cards and signs distributed either at retail or elsewhere.

B.01.401 (9) Items 9 to 13 of the table to section B.01.401 of the Regulations are replaced by the following: Re: Item 16- % Daily Value Interpretive statement:

- The following are comments CPMA submitted to the 2014 consultation on Nutritional Labelling and would like to reiterate:
 - CPMA is concerned with the approach of including the interpretative footnote (Item 16), "5% DV or less is a little; 15% DV or more is a lot" on an NFt, since for fruits, it may have the unintended consequence of creating confusion for consumers and in turn discourage Canadians from eating fruits which contain greater than 15 g sugar per serving (e.g. bananas, grapes, cherries). It is worth noting that the sugar in fruits is not an added sugar; it is a naturally occurring component of nutrient dense products recommended by Health Canada as part of a healthy and well balanced diet.
 - It is a concern that uninformed consumers may also extrapolate from this information that all fruits are high in sugar and should be avoided at a time when consumers are being encouraged to increase consumption of fresh fruits and vegetables for their better health.
 - CPMA feels that such messages should instead be used in a public education campaign to inform consumers of the true meaning of such a claim relative to a particular nutrient.

Respectfully submitted on behalf of CPMA by:

Sally Blackman

Manager, Food Safety & Nutrition | Gestionnaire, Salubrité des aliments et nutrition
 Canadian Produce Marketing Association | Association canadienne de la distribution de fruits et légumes

162 Cleopatra Drive Ottawa ON K2G 5X2 | (+1) 613-226-4187 x215 | Cell: (+1) 613-884-3567 | Fax: (+1) 613-226-2984

sblackman@cpma.ca