



September 4, 2019

Subject: Canadian Produce Marketing Association comments on proposed Food Labelling Modernization Regulation Amendments for Canada Gazette, Part 1

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Comments submitted to: cfia.labellingmodernizationmodernisationetiquetage.acia@canada.ca

The Canadian Produce Marketing Association (CPMA) and its members support the regulatory food labelling modernization efforts of the Government of Canada and is pleased to provide comments on the proposed changes to labelling requirements in the *Food and Drug Regulations* (FDR) and the *Safe Food For Canadians Regulations* (SFCR) in the 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 over 800 domestic and international members who are responsible for 90% of the fresh fruit and vegetables sales in Canada.

CPMA consulted with our membership to ensure robust and comprehensive comments are provided.

General comments:

CPMA supports CFIA's FLM initiative to develop a more modern and innovative food labelling system, by responding to consumer demand and by providing food industry with increased flexibility in labelling requirements. By aligning Canada's labelling requirements with international standards and major trading partners, amending outdated and unnecessary regulations, and incorporating certain documents by reference, market access is improved in the produce industry. With the proposed changes in the regulations, it is imperative that the monetary and operational effects on industry be considered. Both general and technical comments are provided on the proposed FLM regulation amendments in the FDR and SFCR.

Date marking and storage instructions: CPMA supports the new definition for "best before date," and its consistency with Codex: General Standard for the Labelling of Prepackaged Goods (GSFLPF). The increased flexibility in the expression of best before date helps to reduce labelling barriers in the produce industry and improve market access. However, the new requirement for year to appear if it is more than 3 months from the date on which the best before date is applied to the label, presents unnecessary challenges to industry. We prefer that CFIA use an outcome-based approach for the declaration of the year, and it only declared for the sake of clarity. We also prefer that the

abbreviations BB/MA be given greater flexibility for use, in extent of small prepackaged products or products not intended for sale to a consumer, as space on consumer packaging is limited.

Food company information: CPMA supports the proposal to include additional forms of contact on a label, including email address, website, postal address, or other information that allows a consumer or purchaser in Canada to communicate with the principal place of business, as postal address is common practice in the produce industry. Flexibility for what additional information offered is welcomed. We are concerned if this information is also required at retail, as many grocery scale labels are unable to display symbols and have character limits.

Foreign state of origin of imported food: As country of origin has always been a requirement for imported fresh fruits and vegetables, we support that the label of a prepackaged food must bear an indication of that foreign state of origin if a food has a foreign state of origin. CPMA supports the proposed definition for foreign state of origin and recommends the terms “Imported from” and “From” be used. We recommend that the term “from” also be voluntarily used by domestic Canadian-grown products, for market fairness.

Legibility and location of information: Given that mandatory information on a label in Canada must be bilingual, and when prepared for the Quebec marketplace, there is a requirement that the French translation must be at least as prominent as the English information, type size requirements must be taken into consideration when determining requirements for minimum letter heights, bolding, etc. It is worth noting that package sizes are often chosen in an effort to minimize waste, environmental impact, and costs. CPMA does not agree with the requirements to have different character heights for upper and lower case words and numerals, as this presents unnecessary challenges to industry, with little benefit to consumers.

Emphasized ingredients: As the ingredients list requires that the declaration be by descending order of proportion by weight, this should provide adequate information for consumers seeking quantitative information about their products. Declaring the percentage of ingredients highlighted through words or pictures on a label or in advertising provides unnecessary challenges to industry. It also provides a risk for releasing proprietary information related to a food product.

Standard container sizes: CPMA supports the proposal to include the “standard container sizes” document as an incorporated by reference document, which includes consumer prepackaged fresh carrots and fresh potatoes and prepackaged (other than consumer prepackaged) apples, potatoes, and carrots. We support the removal of standard container sizes for consumer prepackaged graded beets, onions, parsnips, and rutabagas from the regulations, as this promotes industry innovation.

Definition of test market food: CPMA supports the new definition for test market food, which takes into account innovation related to packaging. In the fresh fruit and vegetable industry, there are many innovations related to packaging sizes that receive approval as test markets. Additionally, the majority of fresh fruit and vegetable test markets relate to grade requirements, which are now incorporated by reference (Compendium of grades). However, there has yet to be guidance on the process that would be used to amend the grade standards should there be a request. The produce industry would need

strong assurance that these conditions would not be imposed on proposals to market products that require an exemption of some kind relative to the grade standard

Transitional provisions and phasing-in of requirements: Depending on when CGII is published, the proposed CFIA timeline may be too short as many of the proposed changes will impact packaging. One date is preferred to provide industry enough time to make these changes, with the recommendation being six years following CGII (Anticipated 2026). Date marking at retail will take much longer than two years to change, given the limits with date coding machines at retail. With present labelling changes, one retailer anticipates that 200,000 labels will be changed and there is concern that not enough design house/printer time is available to make these changes in the recommended CFIA time period.

The transition is also proposing alignment with Health Canada's timelines for Front of Package (FOP) labelling and FDR nutrition labelling, which has not been published in CGII and has been extended from 2021 to 2022, respectively. If FOP is not published, timelines must be reconsidered when FLM regulations are published in CGII as nutrition labelling changes may have already occurred and new packaging may have to be reprinted. The cost to industry and consumers must be considered.

Local food claims: Although "local food claims" was not presented in the FLM CG1 consultation, CPMA strongly believes that the government has a responsibility to provide policy and/or regulation that clearly delineate the specifics of claims made on food labels. To expect that terms such as "local" will somehow have a standardized meaning across all foods and all jurisdictions is unrealistic without government policy and will lead to grievous misrepresentation in the marketplace. While low risk in terms of safety, misrepresentation of these types of claims will undoubtedly lead to unnecessary costs and distrust relative to consumers and could ultimately undermine the credibility of Canada's foods and labelling.

Technical Comments:

Date Marking and Storage Instructions

Proposed Amendments to FDR:

The definitions durable life and durable date in subsection B.01.001(1) of the Regulations are repealed:

Durable life: the period, commencing on the day on which a prepackaged product is packaged for retail sale, during which the product, when it is stored under conditions appropriate to that product, will retain, without any appreciable deterioration, its normal wholesomeness, palatability, nutritional value and any other qualities claimed for it by the manufacturer;(durée de conservation)

Durable life date: the date on which the durable life of a prepackaged product ends; (date limite de conservation)

CPMA comments:

- We support the removal of the definitions for durable life and durable life date.

Subsection B.01.001(1) of the Regulations is amended by adding the following in alphabetical order:

best before date means the date up to and including which an unopened and properly stored prepackaged product will remain marketable, without any appreciable deterioration, and will retain any qualities for which representations, express or implied, have been made; (date « meilleur avant »)”

CPMA Comments:

- We support providing a definition for best before date, however, in the proposed B.01.007 (2) B Table, the term "best quality before" is used. This term should be included in the new definition, along with the following: “However, beyond the date the food may still be acceptable for consumption”. This statement provides clarity that this is about quality and not food safety.

Section B.01.007 of the Regulations is being removed:

“B.01.007 (1) In this section, packaging date means:

- (a) the date on which a food is placed for the first time in a package in which it will be offered for sale to a consumer; or
- (b) the date on which a prepackaged product is weighed by a retailer in a package in which it will be offered for sale for the first time to a consumer.

(1.1) The following information shall be shown on any part of the label:

- (a) the identity and principal place of business of the person by or for whom the food was manufactured or produced;
- (b) where a prepackaged product having a durable life of 90 days or less is packaged at a place other than the retail premises from which it is to be sold,
 - (i) the durable life date, and
 - (ii) instructions for the proper storage of the prepackaged product if it requires storage conditions that differ from normal room temperature; and
- (c) where a prepackaged product having a durable life of 90 days or less is packaged on the retail premises from which it is to be sold,
 - (i) the packaging date, and
 - (ii) the durable life of the food, except when the durable life appears on a poster next to the food.

(1.2) The packaging date referred to in paragraph (1.1)(c) shall be shown in the form and manner prescribed for the durable life date by subsections (4) and (5) and the terms “best before” and “meilleur avant” on the label shall be replaced by the terms “packaged on” and “empaqueté le”.

(2) Paragraph (1.1)(a) does not apply to fresh fruits or fresh vegetables that are prepackaged on retail premises in such a manner that the fruits or vegetables are visible and identifiable in the package.

(3) Paragraphs (1.1)(b) and (c) do not apply to

(a) prepackaged products consisting of fresh fruits or fresh vegetables;

(b) prepackaged individual portions of food that are served by a restaurant or other commercial enterprise with meals or snacks;

(c) prepackaged individual servings of food that are prepared by a commissary and sold by automatic vending machines or mobile canteens; or

(d) prepackaged donuts.

(4) The durable life date shall be shown in the following manner:

(a) the words “best before” and “meilleur avant” shall be shown grouped together with the durable life date unless a clear explanation of the significance of the durable life date appears elsewhere on the label;

(b) where, for the sake of clarity, it is necessary to show the year in which the durable life date occurs, the year shall be shown first and shall be expressed by at least the last two numbers of the year;

(c) the month shall be shown in words after the year, if the year is shown, and may be abbreviated as prescribed by subsection (5); and

(d) the day of the month shall be shown after the month and shall be expressed in numbers.

(5) The month of the durable life date, when abbreviated, shall be abbreviated as follows and only one such abbreviation shall be used for the English language and the French language: (JA for JANUARY, FEB for FEBRUARY, MR for MARCH, AL for APRIL, MA for MAY, JN for JUNE, JL for JULY, AU for AUGUST, SE for SEPTEMBER, OC for OCTOBER, NO for NOVEMBER, DE for DECEMBER)

(6) Except as otherwise provided in these Regulations, no person shall use a durable life date marking system on the label of a prepackaged product or in advertising a prepackaged product other than the marking system set out in this section.

(7) Paragraph (1.1)(b) does not apply to prepackaged fresh yeast, if

(a) the date on which it is estimated that the product has lost its effectiveness is shown on the label in the form and manner prescribed for the durable life date by subsections (4) and (5); and

(b) the terms “best before” and “meilleur avant” are replaced by the terms “use by” and “employez avant”.

And replaced by the following:

B.01.007 (1) The following information must be shown on any part of the label of a prepackaged product:

(a) the expiration date, if required by these Regulations; and

(b) in any other case, except in the case of a prepackaged product referred to in the document entitled *Prepackaged Products which do not Require a Best Before Date*, prepared by the Canadian Food Inspection Agency and published on its website, as amended from time to time, the best before date.”

CPMA comments:

- CPMA supports that the document "Prepackaged products which do not require a best before date" be incorporated by reference. We support that "whole" fresh fruits and fresh vegetables be included in this document. This appears to be consistent with CODEX guidelines, where a best before date does not need to be declared, provided that food safety is not compromised and the deterioration of a food is clearly evident by physical examination at the point of purchase, such as raw fresh produce that has not been subject to processing and presented in a manner that is visible to the consumer.

(2) “Any expiration date or best before date that is shown on a label must be shown in the following manner:

(a) if it is not more than three months from the date on which it was applied to the label, it must

(i) consist of the day and the month, and may include the year, or a reference to where that information is located on the label, and

(ii) be grouped together with one of the expressions set out in column 1 and, if any, its corresponding expression set out in column 2 of one of the following tables:

CPMA Comments:

- There is no definition for “best quality before” and believe it should be added to the definition for “best before” date defined in the FDR B.O.1.001(1). We **support** the flexibility of sequencing in the proposed regulations.

(B) in the case of a **best before date**,

TABLE		
Item	Column 1	Column 2

1	"best before" or "best quality before"	"meilleur avant" or "à consommer de préférence avant le" or "date limite d'utilisation optimale"
2	"BB" displayed in upper case letters if the available display surface of a prepackaged product intended for sale to a consumer is less than 100 cm ² or if it is a prepackaged product not intended for sale to a consumer	"MA" displayed in upper case letters if the available display surface of a prepackaged product intended for sale to a consumer is less than 100 cm ² or if it is a prepackaged product not intended for sale to a consumer

CPMA comments:

- We recommend that the abbreviations BB/MA be given greater flexibility for use in extent of small prepackaged products or products not intended for sale to a consumer, as some suppliers date coding machines are limited in characters and are unable to spell out “best before” or “meilleur avant” in full.

(b) if it is more than three months from the date on which it was applied to the label, it must

(i) consist of the day, the month and the year or a reference to where that information is located on the label, in which case it must grouped together with the expressions referred to and in the manner set out in subparagraph (a)(ii), or

CPMA comments:

- For fresh fruits and vegetables, we support the present Canadian requirements that the year be mandatory only when its declaration is needed for the sake of clarity (ie. when the durable life goes into the next year). As per the proposed regulations, if it is more than 3 months from the date on which it was applied to the label, it must include the year. We prefer the approach in the current regulations B.01.007 (4)(b) that the year be declared for the sake of clarity (outcome-based), rather than it being a requirement if it's more than 3 months from the date on which it was applied

(ii) consist of the month and the year or a reference to where that information is located on the label, in which case it must grouped together with one of the expressions set out in column 1 and its corresponding expression set out in column 2 of one of the following tables:

(B) in the case of a best before date,

TABLE		
Item	Column 1	Column 2
1	"best before end" or "best quality before end"	"meilleur avant fin" or "à consommer de préférence avant fin" or "date limite d'utilisation optimale avant fin"
2	"BB end", BB being abbreviated in upper case letters if the available display surface of a prepackaged product intended for sale to a consumer is less than 100 cm ² or if it is a prepackaged product not intended for sale to a consumer	"MA fin", MA being abbreviated in upper case letters if the available display surface of a prepackaged product intended for sale to a consumer is less than 100 cm ² or if it is a prepackaged product not intended for sale to a consumer

(c) the day and the year must be expressed in numbers and the year must be expressed by its last two or all of its four numbers;

(d) the month must be:

(i) expressed in numbers, unless the day or the year is not shown in the date, in which case it must be expressed in accordance with subparagraph (ii), or

(ii) shown in words or abbreviated as follows, with only one such abbreviation being used for the English language and the French language:

- JA for JANUARY
- FE for FEBRUARY
- MR for MARCH
- AL for APRIL

- MA for MAY
- JN for JUNE
- JL for JULY
- AU for AUGUST
- SE for SEPTEMBER
- OC for OCTOBER
- NO for NOVEMBER
- DE for DECEMBER

(e) the day, the month and the year may be shown in any order, unless the month is shown in words or abbreviated, then it is preceded by the year, if shown, and followed by the day of the month, if shown;

CPMA comments:

- We support the Canadian position at Codex that the sequence of the day, month, and year be given by appropriate abbreviations accompanying the date mark if the month is numerical or if the year is represented by the last 2 digits. Allowing formats which are consistent with international requirements and standards will be consistent with our positions at the international level and help eliminate costly and complicated packaging requirements for different jurisdictions.

(f) if the date is expressed only in numbers or if the year is expressed by the last two numbers of the year, the following abbreviations must accompany the date, in English and in French, taking into account the order of presentation of the day, the month and the year and of the language of presentation of the expressions referred to in subparagraphs (2)(a)(ii) and (b)(ii) with which they are grouped

(i) for the day, “dd” and “jj” or “DD” and “JJ”,

(ii) for the month, “mm” or “MM”, and

(iii) for the year, “yy” and “aa”, “YY” and “AA”, “yyyy” and “aaaa” or “YYYY” and “AAAA”, as the case may be; and

(g) the day, the month, the year and the abbreviations referred to in paragraph (f) must be separated using a space or symbol, including a hyphen or a slash, that is readily legible.

(3) Paragraphs (2)(c) to (g) do not apply to the label of a prepackaged product that is not intended for sale to a consumer if the date is indicated in a manner that is identifiable to the purchaser.

CPMA comments:

- We support this regulation in that date marking related to 2(c) to (g) on a prepackaged (other than consumer prepackaged) product not be required.
- Can you clarify what is meant by “identifiable to the purchaser”? Is this related to the “description of the significance of that date” in (5) below?

(4) Except as otherwise provided in these Regulations, no person shall use an expiration date or a best before date marking system on the label of a prepackaged product or in advertising a prepackaged product other than the marking system set out in this section.

(5) Any date, other than an expiration date or a best before date that is shown on the label or in the advertisement of a prepackaged product intended for sale to a consumer must be accompanied by a description of the significance of that date

CPMA comments:

- What is meant by a description of the significance of that date? Would expressions such as “Harvest date,” “Sell by,” “Packed on” etc. be examples of these descriptions?
- For traceability purposes, “production date” and “harvest date” can be used as a lot code. Would the terms “harvest date” or “pack date” followed by a date suffice as a description of the significance of that date?
- Can you confirm that any other dates besides expiration dates and best before dates, are not required to follow the “best before date” or “expiration date” format?

(6) Conditions for the storage of a prepackaged product must be shown on the label on the principal display panel or grouped with the list of ingredients if

(a) the conditions are required to support the integrity of the food; or

(b) the validity of the expiration date or best before date depends on those conditions”

CPMA comments:

- As space for labelling can be limited on the principal display panel (due to mandatory labelling requirements for information on principal display panel) and as fresh fruit and vegetable products do not often carry a list of ingredients, we prefer that storage conditions be shown on any part of the label, as is currently stated in the current FDR regulations B.01.007 (1.1b(ii)).
- We also have concerns if these storage conditions are required at store level, as capacity at store level is not built to mention shelf stability (storage information).

Food Company Information

Paragraph 218 (1) (b) is being removed:

“Unless otherwise provided by this Part, a label that is applied or attached to a prepackaged food must bear (b) the name and principal place of business of the person by or for whom the food was manufactured, prepared, produced, stored, packaged or labelled, on any part of the label other than any part that is applied or attached to the bottom of the container of the food; and”

And replaced by:

“**218 (1)** Unless otherwise provided by this Part, a label that is applied or attached to a prepackaged food must bear: **(b)** the name and the city and province or foreign state of the principal place of business of the person by or for whom the food was manufactured, prepared, produced, stored, packaged or labelled, on any part of the label other than any part that is applied or attached to the bottom of the container of the food; and”

CPMA comments:

- We support the proposal for principal place of business to include city and province or foreign state, as this is common practice in the produce industry.

Section 223 of the Regulations is removed:

“223 Name of importer

- (1) If a consumer prepackaged food was wholly manufactured, processed or produced in a foreign state and the name and principal place of business of the person in Canada for whom it was manufactured, processed or produced or the person by whom it was stored, packaged or labelled in Canada is shown on its label, that information must be preceded by the expressions “Imported by” and “importé par” or “Imported for” and “importé pour”, as the case may be, unless the geographic origin of the consumer prepackaged food is shown on the label in accordance with subsection (3).

Food packaged in Canada

- (2) If a food that was wholly manufactured, processed, produced in a foreign state is packaged in Canada, other than at retail, and the name and principal place of business of the person in Canada for whom the food was manufactured, processed, produced or packaged is shown on the label that is applied or attached to the resulting consumer prepackaged food, that information must be preceded by the expressions “Imported by” and “importé par” or “Imported for” and “importé pour”, as the case may be, unless the geographic origin of the food is shown on the label in accordance with subsection (3)

Geographic origin

(3) The geographic origin of a food must, subject to the requirements of any other federal or provincial law, be shown

(a) in close proximity to the name and principal place of business of the person by or for whom the food was manufactured, processed or produced; and

(b) in characters of at least the same height as those in which the information referred to in paragraph (a) is shown.”

And being replaced by:

“223 (1) A label that is applied or attached to a consumer prepackaged food must bear a telephone number, an email address, a website address, a postal address or other information that allows a consumer or purchaser in Canada to communicate with the person referred to in 218(1)(b) or a person acting on their behalf.

Location

223 (2) The information referred to in subsection (1) must be shown in close proximity to the information required under paragraph 218(1)(b).”

CPMA comments:

- We support the proposal to include additional forms of contact, including email address, website, postal address, or other info that allows a consumer or purchaser in Canada to communicate with principal place of business, to align with emergence of new technologies. Postal address is common practice in the produce industry, but flexibility for what additional information offered is welcomed. We also support that this information be in close proximity to principal place of business
- We are, however, concerned if further contact information is required at retail, as many grocery scale labels can't display symbols and have character limits.

Foreign State of Origin of Imported Food

Section 198 of the Regulations is amended by adding the following in alphabetical order:

“foreign state of origin means the foreign state in which a food was produced or the foreign state in which the food is last substantially transformed by being manufactured, processed, treated, or preserved in a way that changes its nature”

CPMA comments:

- We support the proposed definition for foreign state of origin. We recommend the terms, “Imported from” and “from” for foreign state of origin and that these expressions be also used by domestic Canadian-grown products.

Section 220 of the Regulations is being removed:

“Exception — name and principal place of business

220 Consumer prepackaged fresh fruits or vegetables that are packaged at retail in such a manner that the fresh fruits or vegetables are visible and identifiable in the container are not

required to be labelled with the name and principal place of business referred to in paragraph 218(1)(b).”

and being replaced by:

“Exception – name and principal place of business

220 Consumer prepackaged fresh fruits or vegetables that are packaged at retail in such a manner that the fresh fruits or vegetables are visible and identifiable in the container are not required to be labelled with the information referred to in paragraph 218(1)(b) and in subsection 223(1).

CPMA comments:

- We support that consumer prepackaged fresh fruits or vegetables that are packaged at retail in such a manner that the fresh fruits or vegetables are visible and identifiable in the container are not required to be labelled with the name and principal place of business and a principal place of business’ form of contact with consumers

Foreign state of origin

220.1 (1) If a food has a foreign state of origin, the label of the prepackaged food must bear an indication of that foreign state of origin

CPMA comments:

- We support 220.1(1) as country of origin has always been a requirement for imported fresh fruits and vegetables.

Varying foreign states of origin

(2) If a food may originate from a foreign state of origin other than that indicated in accordance with subsection (1), the producer may substitute food originating from the initial foreign state of origin with food originating from another foreign state of origin, in the 12-month period commencing from the time the label is applied or attached to the prepackaged product, if the following information is clearly indicated on the label:

- (a)** the initial foreign state of origin from which the food originates;
- (b)** all the other foreign states of origin from which the food may originate throughout the 12-month period; and
- (c)** an indication that the food may be substituted with food from another foreign state of origin.

CPMA comments:

- We support the varying states of origin definition, as there are often different origins for different fruits and vegetables in a prepackaged product at different times of the year, due to availability. Guidance on how this information is to be presented is welcomed.

Height and proximity of characters

- The indication of the foreign state of origin of the food must be shown in close proximity to the information required under paragraph 218(1)(b), in characters of at least the same prominence.

CPMA comments:

- We generally support that foreign state of origin be in close proximity to the name and city and province or foreign state of principal place of business and in characters of at least same prominence, as this aligns with all commodities. However, we ask that location of foreign state of origin also be given flexibility on where it appears on label (not only with address), if it is in a larger type size or given greater prominence.

Multiple foreign states of origin

220.2 If more than one foreign state of origin is shown on the label, the names of the multiple foreign states of origin must be in descending order of their proportion or likelihood of proportion in the food.

CPMA comments:

- We support that if more than 1 foreign state of origin is shown on the label that the names of multiple foreign states of origin be in descending order of their proportion or likelihood proportion of food. However, more guidance should be provided for blended products, such as salad kits, as they are not covered in the regulations. For example, if a salad kit has a dressing from Canada, lettuce from Mexico or USA, and toppings from Mexico, how should foreign states be declared?
- Will there be exemptions for in-store packaged items?

Exception — fresh fruits or vegetables

220.4 If prepackaged fresh fruits or vegetables that are labelled in accordance with this Part are placed inside of a second container and the resulting product is prepackaged fresh fruits or vegetables, other than consumer prepackaged fresh fruits or vegetables, the second container is not required to be labelled with the information referred to in subsection 220.1(1) if that information is easily visible and legible without having to open the second container and is not obscured by the container.

CPMA comments:

- We support that foreign state of origin not be required on prepackaged FFV (other than consumer prepackaged) that contains labelled prepackaged fresh fruits or vegetables, if that info is easily visible, legible, and without having to open the second container and is not obscured by the container.

Paragraph 354(d) of the Regulations is removed:

“354 If an expression that is referred to in subsection 353(1) or (2) is shown on the label of a food commodity, the label must also bear

(d) in the case of a food commodity that is imported and on whose label the product legend that is set out in Schedule 9 is applied, the expression “Product of” or “produit de” immediately preceding the name of the foreign state of origin or the word “Imported” or “importé” in close proximity to that product legend.”

And replaced by the following:

“(d) in the case of a food commodity that is imported and on whose label the product legend that is set out in Schedule 9 is applied, the name of the foreign state of origin or the word “Imported” or “importé” in close proximity to that product legend.”

CPMA comments:

- We support this change as it aligns with removing the expression, “Product of” when stating country of origin.

Sections 269, 270, and 271 of the Regulations are repealed

269 (1) The expression “Product of” or “Produce of” or “produit de”, “Grown in” or “cultivé dans” or “Country of Origin” or “pays d’origine”, followed by the name of the foreign state in which the fresh fruits or vegetables were grown, or other words that clearly indicate that foreign state, must be shown on the principal display panel of imported prepackaged fresh fruits or vegetables in close proximity to the declaration of net quantity or the grade name.

269 (2) If prepackaged fresh fruits or vegetables that are labelled in accordance with this Part are placed inside of a second container and the resulting product is prepackaged fresh fruits or vegetables, other than consumer prepackaged fresh fruits or vegetables, the second container is not required to be labelled with the information referred to in subsection (1) if that information is readily discernible and legible without having to open the second container and that information is not obscured by the container.

269 (3) This section applies whether or not the imported prepackaged fresh fruits or vegetables are subsequently repackaged in Canada.

270 (1) The information that is required by section 269 must be shown in boldface type in characters of at least the minimum character height that is set out in column 2 of Schedule 6 for the area of a principal display surface that is set out in column 1.

270 (2) Subsection (1) does not apply in respect of consumer prepackaged fresh fruits or vegetables that are packaged from bulk at retail or that are catch-weight foods sold by a retailer.

271 Despite subsection 270(1), in the case of prepackaged fresh fruits or vegetables, other than consumer prepackaged fresh fruits or vegetables, whose container is a reusable plastic container, the characters must be at least 1.6 mm in height.

CPMA comments:

- We support the repeal of 269, 270 and 271 as this removes the commodity-specific requirements for imported fresh fruit and vegetable (FFV) products, which were different than for domestic (FFV) under the new SFCR. The replacement of this requirement (new location for foreign state of origin) aligns with other commodities.

Legibility and Location of Information on Label

Proposed amendments to SFCR:

Sections 210 and 211 of the regulations are being removed:

210 (1) This section applies unless another provision of this Part specifies a character height for a particular item of information.

(2) The information that a label of a consumer prepackaged food is required by this Part to bear must be shown in characters that are at least 1.6 mm in height.

(3) That information, other than the declaration of net quantity, may be shown in characters that are at least 0.8 mm in height if

(a) the information that a label is required by Division 2 to bear is shown on the principal display panel; and

(b) the area of the principal display surface is 10 cm² or less.

211 The height of the characters in words shown on a label must be determined by measuring

- **(a)** the height of an upper case letter, if the words are shown in upper case only; and
- **(b)** the height of the lower case letter “o”, if the words are shown in lower case or in both upper and lower case.

And replaced by the following:

Legibility and type size

210(1) Unless otherwise provided in these Regulations, any information that is required under this Part to be shown on the label of a prepackaged product must be easily legible, including:

a) in a manner that is not obscured or crowded by the packaging or any printed, written or graphic material on the package or label;

b) in a uniform colour contrasting with the background of the label so that the information is readily discernible

- c) in a manner that the characters never touch each other;
- d) in characters that are in regular or bold type that is not condensed and not scaled horizontally or vertically; and
- e) in characters:
 - (i) that are at least 1.6mm in height (if info is shown in lower case or lower and upper case)
 - (ii) that are at least 2.4mm in height (if info is only in upper case letters or only numerals)

CPMA comments:

- We generally support the proposed requirements for information on a label to be not obscured/crowded by packaging, printed info, or graphics, in contrast with background, not touching each other, and in regular or bold type. However, there are concerns for retailers that in-store scale labels may not provide adequate contrast, thus an exemption for scale labels is preferred.
- We do not support the characters being in a uniform colour, as this may limit marketing design
- We do not support the different character heights for all upper case letters or numerals. Given that required information on a label in Canada must be bilingual, and when prepared for the Quebec marketplace there is a requirement that the French translation must be at least as prominent as the English information, type size requirements must be taken into consideration when determining requirements for minimum letter heights, bolding, etc. It is worth noting that package sizes are often chosen in an effort to minimize waste, environmental impact, and costs.
- Currently, for fresh fruits and vegetables, the type size requirements for numerical quantity in net contents, grade name, and the country of origin declaration is according to the principal display surface (SFCR, 229 1(a),270,320). The requirements for these declarations should be the same as for other required information (ie. minimum 1.6mm, or 0.8 mm for smaller packages) and consistent for all other commodities.

Exception

(2) Despite paragraph (1)(e), if the principal display surface, as defined in section 1 of the Safe Food for Canadians Regulations, of a package is 10 cm² or less, the character height in subparagraph (1)(e)(i) must be at least 0.8 mm and the character height in subparagraph (1)(e)(ii) must be at least 1.2 mm.”

CPMA comments:

- CPMA does not support that packages with a principal display surface of 10cm² or less should have different character heights, if shown in upper or lower case letters, for the same reasons above (prominence rule in Quebec, smaller packages used for environmental reasons)

Common name

(3) The common name on the principal display panel of a prepackaged product must be in a single font, in bold type and on a background that results in equal prominence of all words and numbers in the common name.”

CPMA comments:

- We support that common name should be in single font and bolded.
- What is meant by equal prominence of all characters? For example, if “Blueberries” is listed on package, does “Blueberries” need to be listed as “BLUEBERRIES” for equal prominence of all characters? If so, we do not support the prominence rule.

Words and numbers in common name

(4) All words and numbers that form part of the common name must be grouped together without any intervening printed, written or graphic material.”

CPMA comments:

- What is meant is meant by intervening graphic material? Do graphics behind the common name count as intervening graphic material?

Exception

(5) The common name must, for the area of the *principal display surface* that is set out in column 1 of Schedule 6 to the *Safe Food for Canadians Regulations*, be shown

- (a) if the words that form part of the common name are shown in lower case letters or in both lower and upper case letters, in characters that are at least the minimum character height that is set out in column 2 of that Schedule; and
- (b) if the words that form part of the common name are shown only in upper case letters, the minimum character height that is set out in column 2 of that Schedule must be multiplied by 1.5.

CPMA comments:

- We do not support different character height minimums for upper and lower case words. This presents unnecessary challenges to industry with little benefit to consumers and requirements should be consistent for all commodities.
- We do not support that the common name letter height be proportional to the principal display surface for the same reason given above (ie. Prominence rule in Quebec and smaller package sizes being used for environmental reasons)

Exception

(8) Paragraphs (1) (c) to (e) and subsection (3) and (5) to (7) apply only to a consumer prepackaged food

CPMA comments:

- We support that Paragraphs (1) (c) to (e) and subsection (3) and (5) to (7) apply only to a consumer prepackaged food

Measurement of type size

211 The height of characters in an item of information required by these Regulations is determined by measuring

- (a) the height of the lower case letter “x” in the font used, if the item of information is shown in lower case or in both upper and lower case letters;
- (b) the height of the upper case letter “H” in the font used, if the item of information is shown in upper case letters only; and
- (c) the height of the numeral, if the item of information is shown in numbers without letters.”

CPMA comments:

- No comment as to what letters should be used for lower or upper case letters. We understand that using small case “o” as the reference might have led to confusion with the number 0.

Sections 270 and 271 are repealed:

Type size

270 (1) The information that is required by section 269 must be shown in boldface type in characters of at least the minimum character height that is set out in column 2 of Schedule 6 for the area of a principal display surface that is set out in column 1.

Exception

(2) Subsection (1) does not apply in respect of consumer prepackaged fresh fruits or vegetables that are packaged from bulk at retail or that are catch-weight foods sold by a retailer.

Reusable plastic container

271 Despite subsection 270(1), in the case of prepackaged fresh fruits or vegetables, other than consumer prepackaged fresh fruits or vegetables, whose container is a reusable plastic container, the characters must be at least 1.6 mm in height.

CPMA Comments:

- We support the repeal of section 270(1), (2), and 271.

Proposed Amendments to FDR:

The regulations are amended by adding the following after section B.01.005:

B.01.005.1(1) Except as otherwise required in these Regulations, each item of information that is required under this Part to be shown on the label of a prepackaged product must be easily legible, including:

- a) in a manner that is not obscured or crowded by the packaging or any printed, written or graphic material on the package or label;
- b) in a uniform colour contrasting with the background of the label so that the information is readily discernible
- c) in a manner that the characters never touch each other;
- d) in characters that are in regular or bold type that is not condensed and not scaled horizontally or vertically; and
- e) in characters:
 - (i) that are at least 1.6mm in height (if info is shown in lower case or lower and upper case)
 - (ii) that are at least 2.4mm in height (if info is only in upper case letters or only numerals)

CPMA comments:

- We generally support the proposed requirements for information on a label to be not obscured/crowded by packaging, printed info, or graphics, in contrast with background, not touching each other, and in regular or bold type. However, there are concerns for retailers that in-store scale labels may not provide adequate contrast, thus an exemption for scale labels is preferred.
- We do not support the characters being in a uniform colour, as this may limit marketing design
- We do not support the different character heights for all upper case letters or numerals. Given that required information on a label in Canada must be bilingual, and when prepared for the Quebec marketplace there is a requirement that the French translation must be at least as prominent as the English, type size requirements must be taken into consideration when determining requirements for minimum letter heights, bolding, etc. It is worth noting that package sizes are often chosen in an effort to minimize waste, environmental impact, and costs.
- Currently, for fresh fruits and vegetables, the type size requirements for numerical quantity in net contents, grade name, and the country of origin declaration is according to the principal display surface (SFCR, 229 1(a),270,320). The requirements for these declarations should be the same as for other required information (ie. minimum 1.6mm, or 0.8 mm for smaller packages) and consistent for all other commodities.

(2) Despite paragraph (1)(e), if the principal display surface, as defined in section 1 of the Safe Food for Canadians Regulations, of a package is 10 cm² or less, the character height in subparagraph (1)(e)(i) must be at least 0.8 mm and the character height in subparagraph (1)(e)(ii) must be at least 1.2 mm.”

CPMA comments:

- CPMA does not support that packages with a principal display surface of 10cm² or less should have different character heights, if shown in upper or lower case letters, for the

same reasons above (prominence rule in Quebec, smaller packages used for environmental reasons)

(4) Paragraphs (1)(b), (d), (e) and subsection (3) do not apply to prepackaged products that are not intended for sale to a consumer.”

CPMA comments:

- We support that paragraphs (1) (b), (d), (e) do not apply to prepackaged products that are not intended for sale to a consumer.

B.01.005.2 Except as otherwise required in these Regulations, the height of characters in an item of information required under this Part is determined by measuring:

- (a) the height of the lower case letter “x” in the font used, if the item of information is shown in lower case or in both upper and lower case letters;
- (b) the height of the upper case letter “H” in the font used, if the item of information is shown in upper case letters only; and
- (c) the height of the numeral, if the item of information is shown in numbers without letters.”

CPMA comments:

- No comment as to what letters should be used for lower or upper case letters. We understand that using small case “o” as the reference might have led to confusion with the number 0.

Section B.01.006 of the regulations is amended by adding the following after subsection (2):

(3) The common name on the principal display panel of a prepackaged product must be in a single font, in bold type and on a background that results in equal prominence of all words and numbers in the common name.”

CPMA comments:

- We support that common name should be in single font and bolded.
- What is meant by equal prominence of all characters? For example, if “Blueberries” is listed on package, does “Blueberries” need to be listed as “BLUEBERRIES” for equal prominence of all characters? If so, we do not support the prominence rule.

(4) All words and numbers that form part of the common name must be grouped together without any intervening printed, written or graphic material.”

CPMA comments:

- What is meant is meant by intervening graphic material? Do graphics behind the common name count as intervening graphic material?

- (5) The common name must, for the area of the *principal display surface* that is set out in column 1 of Schedule 6 to the *Safe Food for Canadians Regulations*, be shown
- (a) if the words that form part of the common name are shown in lower case letters or in both lower and upper case letters, in characters that are at least the minimum character height that is set out in column 2 of that Schedule; and
- (b) if the words that form part of the common name are shown only in upper case letters, the minimum character height that is set out in column 2 of that Schedule must be multiplied by 1.5.

CPMA comments:

- We do not support different character height minimums for upper and lower case words. This presents unnecessary challenges to industry with little benefit to consumers and requirements should be consistent for all commodities.
- We do not support that the common name letter height be proportional to the principal display surface for the same reason given above (ie. Prominence rule in Quebec and smaller package sizes being used for environmental reasons)

(8) Subsections (3) and (5) do not apply to prepackaged products that are not intended for sale to a consumer.

CPMA comments:

- We support that subsections (3) and (5) do not apply to prepackaged products that are not intended for sale to a consumer.

Emphasized Ingredients

The Regulations are amended by adding the following after section B.01.008.3:

B.01.008.4 (1) The following definitions apply in this section.

characterizing flavour means a flavour that is expressly or implicitly represented by words or a depiction on the label or in the advertisement of a prepackaged product, other than through the list of ingredients

characterizing ingredient: An ingredient, component or class of ingredients, other than a flavouring preparation, that is emphasized by words or a depiction on the label of a prepackaged product

(2) Subject to subsections (3) and (4), the percentage of any characterizing ingredient in a prepackaged product must be shown on the label of a prepackaged product in accordance with subsections (6) and (7).

(3) Subsection (2) does not apply to a characterizing ingredient if:

(a) it is a food additive, a flavour enhancer, a vitamin, a mineral nutrient, salt, a salt substitute, a casing or an edible coating;

(b) it is not a spice or an herb, is added to the food in small quantities for the purpose of flavouring and its addition as flavouring is prominently displayed on its principal display panel in accordance with subsection (8);

(c) it is a spice or an herb, added for the purpose of flavouring the food, and the food is not a mixture of spices, herbs or seasonings, an herbal tea or a food comprising spices and herbs as predominant ingredients;

(d) it forms part of the common name of the food

(i) as defined in paragraph (a) of the definition common name in subsection B.01.001(1) or in paragraph (a) or (b) of the definition common name in section 1 of the Safe Food for Canadians Regulations, or

(ii) as that term is defined under any Act of Parliament, other than as defined in subparagraph (i), and the variation in the quantity of the characterizing ingredient does not distinguish the food from similar foods;

(e) it is a nutrient that has the same name as the characterizing ingredient and a declaration of the amount of the nutrient in the food is shown on the label in accordance with these Regulations;

(f) it forms part of a health statement or claim, other than a statement or claim set out in column 1 of the Table following section B.01.603, and its amount in the food is shown in a statement per serving of stated size; or

(g) its amount in the food is provided by a declaration of net quantity.

(4) Subsection (2) does not apply to a prepackaged product if

(a) it is a human milk substitute or a food represented for use in a very low energy diet;

(b) it is an individual portion of food that is solely intended to be served by a restaurant or other commercial enterprise with meals or snacks;

(c) it is a confection that is sold individually, commonly known as a one bite confection; or

(d) it is a food colour preparation, a flavouring preparation, an artificial flavouring preparation, a vitamin preparation, a mineral preparation, a food additive preparation, a rennet preparation, a food flavour-enhancer preparation, a compressed, dry, active or instant yeast preparation, a bacterial culture, a mould culture, salt, a salt substitute, baking powder, a chewing gumbase, gelatin, a casing or an edible coating.

6) The percentage of a characterizing ingredient must be shown

(a) in the list of ingredients, immediately preceding or following the common name of the ingredient, component or class of ingredients, as the case may be, except in the case referred to in subsection (5);

(b) immediately after the list of ingredients, the statement referred to in subsection B.01.010.3(1) or the declaration referred to in subsection B.01.010.4(1), whichever of those items of information comes last, and in the following manner:

(i) on the same continuous surface as that item of information, without any intervening printed, written or graphic material,

(ii) against the same background colour as that item of information,

(iii) if the item of information is differentiated by means of a solid-line border or solid lines in accordance with paragraph B.01.008.2(2)(a) or B.01.010.3(1)(a.2) or subparagraph B.01.010.4(1)a(ii), within the border or the lines, and
(iv) on a different line than that on which the statement referred to in subsection B.01.010.3(1) or the declaration referred to in subsection B.01.010.4(1) appears, as the case may be;

(c) as part of the common name of the food or in a statement in close proximity to the common name of the food; or

(d) if the characterizing ingredient is not shown as part of the common name of the food but is shown in words on the principal display panel, in the most prominent claim, in words, in which it is shown in type of equal prominence.

(7) The percentage of a characterizing ingredient must be expressed in numbers and, in the circumstances described in subsection B.01.011(2), as the minimum percentage immediately preceded or followed by an indication that it is a minimum percentage.

(8) The addition of a characterizing flavour or a characterizing ingredient as flavouring to a prepackaged product must be prominently displayed on the principal display panel and be clearly and conspicuously communicated in the advertisement of the prepackaged product, if the prepackaged product

(a) does not contain a characterizing ingredient which provides the characterizing flavour and contains a flavouring preparation or other ingredient which provides the characterizing flavour;

(b) in the case where the characterizing ingredient is not a spice or an herb, contains the characterizing ingredient in small quantities for the purpose of flavouring the food and the percentage of the characterizing ingredient is not shown on the label; or

(c) in the case where the characterizing ingredient is a spice or an herb added for the purpose of flavouring the food, is not a mixture of spices, herbs or seasonings, an herbal tea or a food comprising spices and herbs as predominant ingredients and contains a flavouring preparation or other ingredient which simulates, resembles or reinforces the characterizing flavour of the characterizing ingredient.

(9) The requirements of subsection (8) do not apply if

(a) the prepackaged product

(i) is a human milk substitute or a food represented for use in a very low energy diet,
or

(ii) is a confection that is sold individually, commonly known as a one bite confection;
or

(b) these Regulations or the *Safe Food for Canadians Regulations* prescribe another manner in which the characterizing flavour of the food must be indicated on the label or in the advertisement of the prepackaged product.

CPMA comments:

- We do not support proposals for characterizing flavour or characterizing ingredients on fresh fruit and vegetable products, which may appear on certain prepackaged foods, such as mixed salads.
- We do not support the requirement for percentage of any ingredient highlighted through words or pictures on the label or in advertising to be declared in the ingredient list. This information is proprietary to the formula for the product. The ingredient list requires that the declaration be by descending order of proportion by weight - this should provide consumers with adequate information. Fresh fruit and vegetable products - particularly mixed salads - will often provide pictures of the product in a package. This alone should not be seen as highlighting the ingredients and therefore % content declaration should not be required. Salad mixes' percentage of ingredients may also vary from run to run.
- Questions:
 - Would a spring mix (without added ingredients ex: no added dressing, croutons, etc.) that advertises romaine, spinach, and red lettuce on front of package through pictures or words be required to declare the percentages of each ingredient emphasized?
 - Would a salad kit (with added ingredients ex: dressing, nuts and seeds, dried fruits, quinoa, etc.) that emphasizes the ingredients through pictures or a name (ex: Summer cranberry salad) be required to declare the percentages of each ingredient emphasized?
 - Note: It is not clear in the proposed regulations whether products such as salad mixes or salad kits would be exempted from declaring the percentage of emphasized ingredient, as there are no prescribed common names for fresh fruits and vegetables in the regulations.
- More guidance is required for industry for clarification purposes:
 - What is considered "emphasis" and "highlighted" ingredients?" Guidance and a decision tree is requested. A case-by-case assessment is not going to allow for consistent application of the regulations for retailers, as they are assessing thousands of products.
 - Clarification is needed for descriptor vs characterizing ingredient in name
 - In B.01.008.4 (8)(b), what is considered 'small quantity?' There needs to be a definition for small quantity.
 - Will there be any exemptions for in store scale labels? Descriptive product name is required for these products and space is very limited (75 characters). Where

would the percentages go as there are no ingredient statements and no extra space on the label?

- More descriptive name - how do you come up with an appropriate common name? Need guidance on this.
- Also, some labels have symbol limitations (no % sign available)

Standard container sizes

Section 1 of the Regulations is amended by adding the following in alphabetic order:

1 *Standard Container Sizes Document* means the document entitled *Standard Container Sizes*, prepared by the Agency and published on its website, as amended from time to time. (*Tailles de contenants normalisées*)

CPMA comments:

- We support the proposal to include the "standard container sizes" document as an incorporated by reference document, as this provides a more flexible framework that permits industry innovation.

Section 187 of the Regulations is removed:

Application: Standard container sizes

187 The requirements of this Division apply in respect of any food that is sent or conveyed from one province to another, imported, or, except if it is set out in column 1 of Table 1 of Schedule 3 or in column 1 of items 5 to 10 of Table 2 of that Schedule, exported.

And replaced by the following:

"187 The requirements of this Division apply in respect of any food that is sent or conveyed from one province to another or imported.

Size corresponding to net quantity by weight or volume

187.1 (1) Subject to subsections (2) and (3), the container of a prepackaged food, including a container that contains food for which a grade may be prescribed by these Regulations, as well as food in a hermetically sealed package, that is listed in the Standard Container Sizes Document, must be of a size that corresponds to a net quantity by weight or volume, or of a maximum capacity by net weight, as the case may be, that is set out in that document, and, if the hermetically sealed package is a metal container, the container must be of the dimensions that correspond to the net quantity by volume that is set out in that document.

Exception — catch-weight foods

187.1 (2) Subsection (1) does not apply in respect of a consumer prepackaged food if, in the

case of a catch-weight food, a label that bears the net weight for retail sale is applied or attached to the food.

Exception — consumer prepackaged foods

187.1 (3) Subsection (1) does not apply in respect of a consumer prepackaged food that is (a) manufactured, prepared, produced, packaged or labelled for use by commercial or industrial enterprises or institutions without being sold by them as a consumer prepackaged food; (b) manufactured, prepared, produced, packaged or labelled only for sale to or by a duty free shop; and (c) distributed to one or more persons for no consideration.”

CPMA comments:

- We support the removal of standard container sizes for consumer pre-packaged graded beets, onions, parsnips, and rutabagas from the regulations, as this allows for industry innovation. We also support the proposal to incorporate by reference standard container sizes, for consumer prepackaged fresh carrots & fresh potatoes, and prepackaged (other than consumer prepackaged) apples, potatoes, and carrots.

Incorporation by reference of class names

Section B.01.001 is amended by adding the following:

B.01.001 *Common Names for Ingredients and Components Document* means the document entitled *Common Names for Ingredients and Components*, prepared by the Canadian Food Inspection Agency and published on its website, as amended from time to time; (*Document sur les noms usuels d'ingrédients et de constituants*)

CPMA comments:

- We support that the Common Names for Ingredients and Components Document be incorporated by reference

Definition of test market food

The Regulations are amended by adding the following after the headings “PART 8” and “Ministerial Exemptions”:

Test Market Food

173.1 In this Part, **test market food** means a food that, (a) prior to being subject to an exemption referred to in subsection 174(1), was not sold in Canada in its current form; and (b) differs substantially from any other food sold in Canada with respect to its composition, function, or packaging form.

CPMA comments:

- We support the new definition for test market food. In the fresh fruit and vegetable industry, there are many innovations related to packaging sizes that receive approval as test markets.
- Additionally, the majority of fresh fruit and vegetable test markets relate to grade requirements, which are now incorporated by reference (Compendium of grades). However, there has yet to be guidance on the process that would be used to amend the grade standards should there be a request. The produce industry would need strong assurance that these conditions would not be imposed on proposals to market products that require an exemption of some kind relative to the grade standard.

Net Quantity

The Regulations are amended by adding the following after section 244:

Declaration of net quantity

244.1 The following prepackaged products (other than consumer prepackaged foods) must bear a declaration of net quantity:

- (a) dairy products;
- (b) eggs graded in accordance with these Regulations;
- (c) fish;
- (d) fresh fruits or vegetables;
- (e) processed fruit or vegetable products;
- (f) graded honey;
- (g) maple products, including maple syrup graded in accordance with these Regulations; and
- (h) edible meat products

CPMA comments:

- In the previous fresh fruit and vegetable regulations ([23](#)), there was a policy where prepackaged products other than consumer prepackaged products that had consumer prepackaged product inside where the labelling was clearly visible, did not require that labelling information on the outer container. We believe net quantity on prepackaged fresh fruit and vegetables should be exempted on the outer container if net quantity for consumer prepackaged product is visible.

Truth and Not Misleading Advertising

Paragraph 199 (1)(b) of the Regulations is being removed:

“For the purposes of subsection 6(1) of the Act, labelling a food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression includes labelling a food with:

(b) any expression, word, figure, depiction or symbol that may reasonably be considered to imply that a consumer prepackaged food contains any matter that it does not in fact contain or that it does not contain any matter that it does in fact contain.”

And replaced by the following:

“**199 (1) (b)** any expression, word, figure, depiction or symbol that may reasonably be considered to imply that a **prepackaged food** contains any matter that it does not in fact contain or that it does not contain any matter that it does in fact contain.”

CPMA comments:

- We support that this regulation related to false, misleading and deceptive labelling be extended to all prepackaged foods (master and shipping containers), and not only consumer prepackaged foods.

Subsection 199(2) of the Regulations is being removed:

False, misleading or deceptive selling, importing, or advertising

(2) For the purposes of subsection 6(1) of the Act, selling, importing or advertising a food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression includes selling, importing or advertising a consumer prepackaged food that is labelled in the manner set out in paragraph (1)(a) or (b)

and being replaced by:

False, misleading or deceptive selling, importing and advertising

(2) For the purposes of subsection 6(1) of the Act, selling, importing or advertising a food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression includes selling, importing or advertising a **prepackaged food** that is labelled in the manner set out in paragraph (1)(b) or a consumer prepackaged food that is labelled in the manner set out in paragraph (1)(a)

CPMA comments:

- **199(2)** We support that this regulation related to false, misleading and deceptive selling, importing, or advertising be extended to all prepackaged foods (master and shipping containers), and not only consumer prepackaged foods.

Exceptions to Labelling

The portion of subsection B.01.003(1) of the Regulations before paragraph (a) is removed:

The following foods shall carry a label when offered for sale:

And replaced by the following:

B.01.003 (1) The following foods **must** carry a label when offered for sale:

(a) all prepackaged products other than:

(i) prepackaged confections, commonly known as one bite confections, that are sold individually, and

(ii) prepackaged products consisting of fresh fruits or fresh vegetables that are packaged in a wrapper or confining band of less than 1/2 inch in width;

CPMA comments:

- **B.01.003 (1)** is inconsistent with SFCR 213 (see below). The FDR needs the addition of a similar statement as 213(c) related to fresh fruits and vegetables in clear packaging (with nothing other than the allowed information) being exempt from labelling regulations.
- **213** Sections 214 and 217 do not apply in respect of any prepackaged foods that are
 - (a) confections that are sold individually, commonly known as one-bite confections;
 - (b) fresh fruits or vegetables that are packaged in a wrapper, or a confining band, that is less than 13 mm in width; or
 - (c) fresh fruits or vegetables that are packaged in a protective wrapper, or a protective bag, that is transparent and on which no information is shown other than a price, bar code, number code, environmental statement or product treatment symbol.

Transitional provisions and phasing-in of requirements

Table 23: Coming into force of FLM amendments

FLM Element	Transitional Period (Assume Final Publication in 2020)
Incorporation by reference of class names Standard container sizes Definition of test market food Streamlining commodity-specific labelling (no change to label)	Immediate
Foreign state of origin of imported food Food company information Date marking and storage instruction Streamlining commodity-specific labelling (changes to label)	Two years (anticipated 2022)
Emphasized ingredient Legibility and location	Six years (anticipated 2026)

SFCR Transitional Provisions

76 Current regulations

(1) During the period beginning on the day on which subsection 77(1) of these Regulations comes into force and ending on **December 13, 2022**, a person is not required to comply with the requirements set out in the following provisions:

- (a) subsection 1(2); (common name)
- (e) subsection 241.2(2) (Refers to exceptions to declaration of net qty) of the Safe Food for Canadians Regulations as enacted by section 25;
- (g) sections 59 and 60 (Refers to 238 (1)(a) and (b) list of ingredients)

December 13, 2026

(2) During the period beginning on the day on which subsection 77(1) of these Regulations comes into force and ending on December 13, 2026, a person is not required to comply with the requirements set out in section 11 of these Regulations.

Coming into Force

Registration

77 (1) Subject to subsection (2), these Regulations come into force on the day on which they are registered.

December 14, 2022

(2) The following provisions come into force on December 14, 2022:

- (a) sections 2 to 4; (refers to 16 (1)(b)(i) exception – export of non-compliant food, 110, and 111 (refers to removal of close proximity for country of origin to net qty or grade)
 - (c) sections 30 and 31 (refers to license and suspensions);
- (h) section 45 (refers to preventative controls);

FDR Transitional Provisions

40 In section 41, *former Regulations* means the *Food and Drug Regulations* as they read immediately before the coming into force of subsection 42(1) of these Regulations.

41 (1) During the period beginning on the day on which subsection 42(1) of these Regulations comes into force and ending on **December 13, 2022**, a person may comply with the former Regulations, except in respect of the following provisions of these Regulations:

- (b) the definition *close proximity* in subsection 2(3);
- (d) section 3 (refers to exceptions of foods to carry a label);

- (h) sections 15 to 19 (refers to listing ingredients by order by weight);

(2) During the period beginning on the day on which subsection 42(1) of these Regulations comes into force and ending on **December 13, 2026**, a person is not required to comply with the requirements set out in sections 5 (legibility and type height), 6 (new requirements for common name) and 10 (labelling of characterizing ingredients), subsection 11(1) (labelling of characterizing ingredients), and sections 13 (characterizing ingredients).

(3) Subsection (2) applies in respect of the requirements set out in sections 6 (common name) and 10 (characterizing ingredients), and subsection 11(1) (characterizing ingredients) of these Regulations, as the case may be, to the extent that the labelling of a food is conducted in accordance with the provisions enacted by those sections and subsection, as those provisions read immediately before the coming into force of subsection 42(1) of these Regulations.

Coming into Force

42 (1) Subject to subsection (2), these Regulations come into force on the day on which they are registered.

CPMA comments:

- Depending on when CGII is published, the proposed CFIA timeline may be too short as many of the proposed changes will impact packaging. One date is preferred to provide industry enough time to make these changes, with the recommendation being six years following CGII (Anticipated 2026).
- Date marking at retail will take much longer than two years to change, given the limits with date coding machines at retail. With present labelling changes, one retailer anticipates that 200,000 labels will be changed and there is concern that not enough design house/printer time is available to make these changes in the recommended CFIA time period.
- The transition is also proposing alignment with Health Canada's timelines for Front of Package (FOP) labelling and FDR nutrition labelling, which has not been published in CGII and has been extended from 2021 to 2022, respectively. If FOP is not published, timelines must be reconsidered when FLM regulations are published in CGII as nutrition labelling changes may have already occurred and new packaging may have to re-printed. The cost to industry and consumers must be considered.