



Regulatory Policy and Cooperation Directorate

Treasury Board of Canada

Submitted Via Email to : regulation-reglementation@tbs-sct.gc.ca

June 19, 2023

RE: Consultation on the Annual Regulatory Modernization Bill

To Whom it May Concern,

On behalf of the Canadian Produce Marketing Association (CPMA), we welcome the opportunity to provide comments to the Treasury Board of Canada consultation on the Annual Regulatory Modernization Bill. CPMA supports the Government of Canada's ongoing efforts towards regulatory modernization, which is necessary to maintain and strengthen the fresh produce industry's global competitiveness.

Based in Ottawa, CPMA is a not-for-profit organization representing companies active in the marketing of fresh fruit and vegetables in Canada, from the farm gate to the dinner plate, spanning the entire produce industry. The Association's members include major growers, shippers, packers and marketers; importers and exporters; transportation and logistics firms; brokers, distributors and wholesalers; retailers and foodservice distributors; and fresh cut operators and processors. Founded in 1925, CPMA is proud to represent over 830 domestic and international members who are responsible for 90% of fresh fruit and vegetable sales in Canada.

As background, CPMA was the industry co-lead on the Journey Mapping Working Group under the Agriculture and Agri-food Canada Agile Regulations Table and supported the recommendation to develop a toolkit to be integrated into the suite of Government of Canada regulatory policy tools to support:

- Understanding of the impact regulations have on business operations,
- Sharing of government objectives imbedded in regulatory requirement setting,
- Enhancing engagement and consultation throughout the regulatory process (i.e. improving the capacity to both provide and consider input after *Canada Gazette I*), and
- Providing a standardized means of consultation to ensure the regulatory process has clear objectives and information data points, thus supporting "whole of government" visibility.

We applaud efforts to assist federal regulators in assessing the impacts of their regulations on the competitiveness of Canadian businesses. This is a foundational element of our work with the government and can best be summarized as ensuring that government recognizes food production and access to food as a priority in all legislative, regulatory, policy and crisis management efforts.

General Comments

Early engagement with stakeholders across the agri-food value chain can allow the government to leverage industry expertise and ensure the development of practical policies and regulations that fuel the sector to become an even more powerful economic engine for Canada, while also meeting the needs of the sector, the government and the Canadian public. CPMA strongly urges the Government of Canada to prioritize thorough consultation with industry prior to making regulatory changes and to move away from a perfunctory approach to stakeholder consultation, to better understand the proposed changes.

In addition, Treasury Board should develop a mechanism to provide visibility and oversight of all simultaneous consultations occurring across departments to better enable an effective consultative process. Attention must be given to the intensity of the consultation schedule – especially during the summer months when many agriculture industry experts and stakeholders are in the midst of their harvest and production season and are therefore unavailable – which makes it extremely difficult for CPMA and our partner organizations to solicit and report on member input.

Industry-specific consideration must be a foundational element of regulation setting. Specific to fresh produce, the Government of Canada has previously recognized agriculture as a strategic sector for Canada. That recognition must include acknowledgement of the logistical realities of highly perishable fruit and vegetables, which mean that priority must be given across regulations to areas that ensure the smooth production and flow of these commodities, both domestically and across international borders.

Regulators should also consistently apply a competitiveness lens and consider cumulative regulatory burden to avoid unintended negative impacts to food production, food security or industry's capacity to meet other government targets and priorities. CPMA applauds the intent of the Competitiveness Assessment Tool (CAT) to help consider and limit unintended impacts on the competitiveness of Canadian businesses. We also note that considering if regulations are innovation friendly and future-proof is a core component of the tool, which, again, is aligned with our recommended approach to regulation setting.

CPMA urges Treasury Board to ensure that the CAT is mandatory for all government departments – the true value of a tool such as this one is in a harmonized, whole-of-government implementation that provides the assurance to industry that the rigor and value of the tool is ubiquitous. We also strongly encourage Treasury Board to implement the Journey Mapping Tool noted above across government departments to further foster understanding of the impact of new or changing regulations.

International trade is critical to the success of the Canadian economy and of the fresh produce industry, one of the most highly globalized supply chains in the world. CPMA strongly recommends that similar regulations in the countries that are our major trading partners are reviewed and considered in the development of Canadian regulations. Furthermore, Canadian regulations, while recognizing any uniqueness within Canada, should not impose measures exceeding those of our trading partners, which can work to render Canada an undesirable export market. In the case of fresh produce, these considerations have a tangible impact on food security for Canadians.

Similarly, it is imperative that standards and best practices developed through rigorous international standards-setting bodies be considered and, wherever possible, imbedded in new Canadian regulations, and CPMA was encouraged to see this included in the proposed CAT. Where business has developed international/global standards – standards tested by commercial application – government must ensure that, wherever possible, the standards it chooses to implement in services and solutions reflect those

business-driven and tested standards. This approach includes outputs from bodies such as Codex in which Canadian government departments participate. If government representatives participate in these efforts, they must ensure that, wherever the determined outputs do not negatively impact Canada, that those outputs are foundational to Canadian regulatory development.

Finally, when significant impacts to industry arise as a result of regulatory or policy change and the relevant government department believes it is bound by regulation, CPMA recommends that a mechanism be put in place to allow for independent examination of the industry or regulatory issue with the goal of determining a workable solution that does not jeopardize business but rather supports an outcome-based model of regulatory compliance.

CPMA concurs with Treasury Board's assessment that the COVID-19 pandemic, as well as other recent events like the catastrophic flooding in British Columbia, have demonstrated the benefits for government, industry and the public alike when dedicated and collaborative effort is put into finding flexible solutions to address urgent challenges. We strongly encourage all government departments to take stock of the lessons learned over the past few years to proactively plan for future events. We recommend that Treasury Board consider developing guidance on flexibility of regulations as a standardized component/mechanism in regulation to enable quick responses to catastrophic events and disruptions.

Regulatory sandboxes

A strong, growing and sustainable Canadian produce industry will depend on our ability to leverage innovation. Global advancements in agricultural biotechnology, from gene-editing to robotics to data enabling tools to support precision agriculture have the potential to accelerate the reduction of GHG emissions and the transition to more sustainable practices.

CPMA generally supports the implementation of regulatory sandboxes and would suggest that technological innovation in the agriculture and agri-food sector could be a valuable space to consider for this work. As noted by the U.S. Environmental Protection (EPA) Agency Emerging Agricultural Technologies Working Group in a 2021 report, "Emerging technologies such as drones, sensors, and robotics are already being adopted by farmers globally to optimize agronomic inputs and increase efficiency while maintaining or improving protection of human health and the environment. Such optimization and the introduction of other components of precision farming like the use of data science to guide agronomic decisions should lead to changes in the regulatory approach".

At the same time, it is important to note that cross-department and agency consideration and collaboration is also necessary to ensure that the Canadian agricultural sector can realize the benefits of the many technological innovations becoming available to enable more sustainable practices. For example, innovations in the drone application of pesticides offer significant promise, both in terms of more targeted pesticide use as well as decreased crop protection costs for growers. However, a regulatory process involving PMRA is required to enable their use in Canada. Regulators must therefore consider the resource implications of the new regulations for the government department(s) responsible for enforcement and to the industry/businesses impacted.

Incorporation by Reference

CPMA is generally supportive of Incorporation by Reference (IbR) as a regulatory mechanism which has the potential to support greater regulatory flexibility and to allow the updating of documents in a timely and concise manner. In the *CFIA Incorporation by Reference Policy*, CFIA states it is committed to the principles of accessibility, transparency, consistency, reasonableness, and clarity when using IbR in regulations. CPMA is supportive of this commitment and emphasizes that meaningful engagement, transparency, and effective information sharing between government departments and industry are necessary to ensure the effective implementation of all IbR provisions.

At the same time, we must emphasize that the fresh produce industry's experience with IbR implementation to date has raised serious concerns about whether these benefits will be realized in practice without careful consideration and concerted effort on the part of government departments to enable them.

- The [Canadian Grade Compendium: Volume 2 – Fresh Fruit or Vegetables](#) is incorporated by reference under the *Safe Foods for Canadians Regulations* (SFCR). The fresh produce sector was assured by the Canadian Food Inspection Agency (CFIA) that the Incorporation by Reference mechanism would facilitate timely updates and changes to the grade standards, which provide a critical role in supporting fair business practices, avoiding or addressing disputes with respect to potential quality issues, and ensuring that Canadian growers are operating on a level playing field with imported product. However, despite significant efforts on the part of industry working groups to present CFIA with thorough proposals for updated standards, the review of the Canadian grade standards has been ongoing for more than two years. In fact, the updated standards for commodities under the first two phases of the review project have seen delays that have cost the greenhouse industry millions of dollars, and future phases (comprised of more than 20 commodities) are still awaiting action on the part of CFIA.
- In another example, the test market provisions under the previous *Fruit and Vegetable Regulations* had allowed industry to test new and innovative products, compositions and packages for consumers. Under the *Safe Foods for Canadians Regulations*, this mechanism was repealed and replaced with new Test Market Authorization and Ministerial Exemption processes that are limited to a very specific set of cases. CFIA has indicated that products that fall outside this narrow scope should best be handled through IbR changes. However, industry does not view the IbR change process as a workable mechanism to support innovation in our sector due to the lengthy review processes and WTO notification requirements, which will make it very difficult, if not impossible, for the fresh fruit and vegetable industry to test the market for innovative products. The fresh fruit and vegetable industry is seeking a nimble regulatory mechanism to replace what was repealed in the previous *Fruit and Vegetable Regulations*, which is critical to granting industry the timely flexibility to market their product and test new and innovative compositions and packages for consumers. Without this approach, Canadian industry will struggle to retain or expand market share.
- Finally, the Canadian Organic Standards provide the regulatory foundation for a strong and growing organic sector and are a critical tool in negotiating beneficial equivalency arrangements with our trading partners. They also provide an example of an ambulatory IbR document that is reviewed every five years. However, in relying upon external bodies for the establishment and maintenance of the standards, Canada's current organic regulatory regime differs from most other

regulatory models in the world and leaves the sector relatively orphaned from government departments and agencies, including Agriculture and Agri-food Canada and the Canadian Food Inspection Agency. CPMA's experience in participating in the cyclical review of the Standards has raised concern about the consultative process and about the Government of Canada's commitment to the maintenance and review of these standards which play such a critical role in international trade. Greater federal support and ongoing government engagement is required to ensure that the Canadian Organic Standards can continue to fulfill their important roles and that the Canadian organic sector can remain competitive on the world stage. CPMA urges the Government of Canada to allocate ongoing, dedicated resources to enable the cyclical review of the Canadian Organic Standards and take a more active and strategic role in the establishment and maintenance of the organic production standards and their harmonization with our largest international trade partners. Furthermore, in implementing IbR provisions, the Government of Canada must work closely with stakeholders to ensure that sufficient government support is in place to enable the effective management of documents incorporated by reference into regulation.

Thank you for taking the time to review our comments. A collaborative approach to find workable solutions for industry and government is the backbone of success for regulatory and policy compliance. CPMA and Canada's fresh produce industry are keen to partner with the government to ensure the success of its Regulatory Modernization agenda.

Regards,

A handwritten signature in black ink, appearing to be 'RL', followed by a horizontal line extending to the right.

Ron Lemaire
President
Canadian Produce Marketing Association