

important changes coming to Canadian food inspection agency's food inspection system

The Canadian Food Inspection Agency ("CFIA") has announced sweeping changes to the Canadian food inspection model. These changes will have an impact on importers, sellers, manufacturers, packagers and exporters of food commodities including meat, fish and agricultural products.

A key component of the legislation is to institute compulsory licensing and registration for the importing or exporting of food products, including transportation of food products between provinces. A pre-condition of such approval is likely to be the establishment of a preventative control plan to address issues of food safety.

A preventative control plan is a framework for the regulated party to assess how effectively its ongoing activities produce safe and compliant food.

The CFIA contemplates 8 elements that would need to be addressed in such a plan; they include:

- physical structure and maintenance of facilities
- equipment design and maintenance
- employee hygiene and training
- sanitation and pest control
- product/process control
- transportation and storage
- traceability and recall
- company verification processes, to confirm preventative control measures achieve their purpose and are adjusted as required

and for each element, the plan would need to include:

- expected outcome
- designated person responsible
- procedures, such as
 - control activities
 - monitoring activities
 - corrective actions
- monitoring frequency
- records and document control
- verification procedures

The details of the proposed legislation include:

- the CFIA aims to condense eight different programs into one single approach using standardized processes and tools with the amending and consolidation of several pieces of legislation and regulations into one single act. The Senate's Bill S-11 the *Safe Food for Canadians Act* (the "**Act**"), tabled in the Senate at the end of the summer of 2012 and currently referred to Committee, will repeal the *Fish Inspection Act*, the *Meat Inspection Act*, and the *Canada Agricultural Products Act*, while making consequential amendments to several other pieces of legislation;
- the Act will prohibit importing or exporting, including between provinces, without being registered or having been issued a licence;
- anyone planning to import, export, convey between provinces, or conduct a prescribed activity in respect of a food commodity that has been imported or will be exported, must apply to be registered and/or licensed. The legislation remains unclear as to which process would apply, though current practice for certain commodities is to require registration of facilities and licensing of persons (including companies);
- establishments to which imported prescribed food commodities are sent must also be registered or licensed. Non-compliance could result in the suspension or revocation of the right to deal in food products;
- the Act will penalize the importing of prohibited food commodities (poisonous/harmful, unfit for human consumption,

or prepared in unsanitary conditions etc.); selling of recalled food commodities; deceptively manufacturing, labelling, packaging, or advertising food commodities;

- the Act will give inspectors a broad range of examination powers; including the right to enter establishments, and conveyances, to verify compliance if they have reasonable grounds to believe that a violation of the Act is occurring there. The Act will also give the Minister the power to request that the court order an injunction to require the person to refrain from doing an act directed towards the commission of an offence; this could mean stopping production;
- the Act will prescribe offences for violating the Act. For summary convictions, the offence may be subject to a fine of not more than \$250,000, 6 months imprisonment, or both. Indictable offences may be subject to a fine of up to \$5,000,000 and 2 years imprisonment. Due diligence defence is available if the person can establish that they took reasonable steps to prevent the commission of the offence;
- for more serious offences of tampering, knowingly communicating false information or threatening to render food commodities injurious to human health, penalties can range from \$500,000 and 18 months imprisonment, to an amount at the discretion of the court and 5 years imprisonment; and
- the Act will give the Minister the power to disclose personal or confidential business information obtained under the Act, to identify a risk to human health, or for a recall, to the public without the consent of the individual.

As noted above, early indications from the CFIA are that a condition of licensing/registration would be the development and implementation of a preventative control plan dependent on the party's initial risk profile.

Parties involved in the food commodities industry should consult with their legal advisers, review their control strategies and have their strategies prepared for implementation as the consequences for non-compliance are severe and the Act could be in effect much sooner than most think.

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[a cautionary note](#)

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