

# Compliance Promotion

## Formalizing an Approach to Support Stakeholder Compliance

THE CANADIAN FOOD  
INSPECTION AGENCY'S  
FOOD SAFETY  
REGULATORY FORUM

## Table of Contents

1.0 Context .....	2
2.0 Purpose of this Paper .....	3
3.0 Compliance Promotion: An Overview .....	3
3.1 Roles and Responsibilities .....	3
3.1.1 Industry .....	3
3.1.2 Third Parties .....	4
3.1.3 The CFIA .....	4
3.2 Barriers to Compliance .....	4
3.3 Small Business Constraints .....	5
4.0 Why Focus on Facilitating Compliance? .....	5
4.1 Aligning Roles and Responsibilities .....	5
4.2 Aligning Tools for Consistency .....	5
4.3 Aligning Efforts to Support Modernization .....	6
5.0 Domestic and International Approaches to Compliance Promotion .....	7
6.0 A Strategy to Formalize an Approach to Compliance Promotion .....	8
6.1 Pillars of a Proposed Compliance Promotion Strategy .....	8
7.0 Proposing a Path Forward .....	10
8.0 Opportunities for Input .....	10
ANNEX A: CFIA COMPLEMENTARY INITIATIVES SUPPORTING COMPLIANCE PROMOTION .....	11
ANNEX B: THE CFIA'S COMPLIANCE AND ENFORCEMENT CONTINUUM .....	12



Compliance Promotion can be defined as any activity that increases awareness, informs, motivates, or changes behaviour, and encourages compliance with a regulatory requirement.

## 1.0 Context

### The changing food safety landscape

The way that food is produced and distributed has undergone fundamental changes in recent decades. The food safety landscape has become more complex, driven by widespread changes in methods of food production and processing, coupled with rapid increases in global food trade. These changes have been created by population and income growth in emerging economies and by consumer demands for more diverse and innovative food choices (e.g., ready-to-eat meals). The food processing industry has also become more technologically advanced, significantly increasing the speed and volume of production. At the same time, industry is seeking to remain competitive by developing new products and accessing new markets.

New food safety risks are emerging as a result of globalization and innovation in the food industry; and the ability to detect those risks is improving due to advances in science and technology. Mass distribution networks mean that problems – when they do occur – can quickly become widespread. Recent international incidents of foodborne illness have shown that outbreaks are not necessarily contained within national borders. Food safety regulators rely upon sophisticated technologies and integrated surveillance information to prevent or respond to food safety incidents.

Consumers today are demanding more meaningful information about food safety and quality. The food industry is responding by implementing a range of preventive food safety systems to provide greater assurance that their products meet safety requirements. At the same time, regulators are increasingly being asked by the public to demonstrate that their food safety oversight systems and approaches are effective.

The Canadian Food Inspection Agency (the CFIA or the Agency) is embarking on a plan to modernize its food inspection system to adapt to new technologies and respond to emerging food safety risks. The CFIA's nine different food inspection programs have similarities and are being consolidated to create consistency through an improved food inspection model. The Agency is also re-examining its plant and animal health programs.

Compliance and enforcement is one of the core components of the Agency's draft improved food inspection model. As outlined in the discussion paper, *The Case for Change*, the first step for regulated parties to achieve compliance is for them to understand their obligations and how best to meet them.

As the Agency moves towards an improved inspection model and updated regulations for food, information and guidance will be key to ensuring success.

There are also opportunities for industry, their associations and other interested third parties (e.g. academia, non-government organizations) to play a significant role in assisting regulated parties to achieve compliance. This includes developing or delivering specialized training, technical assistance, peer support and highlighting industry best practices. Ultimately, all partners in food safety must remain vigilant and responsive to the changing environment, to keep pace with the increasing speed of commerce and the challenges it brings.

## 2.0 Purpose of this Paper

The purpose of this paper is to invite feedback from stakeholders on: compliance promotion generally; the Canadian Food Inspection Agency's proposed approach going forward; and industry's role and the role of third parties in contributing to an effective compliance management system. While this paper discusses compliance promotion in the context of food, the strategy will ultimately apply to plant health and animal health as well.

## 3.0 Compliance Promotion: An Overview

A compliance promotion approach offers a number of benefits to the CFIA as a regulator, as well as to regulated parties and to consumers. As a result, the food safety system is strengthened through better public health outcomes; the generation of efficiencies and the potential to target enforcement efforts towards regulated parties who willingly choose not to comply with requirements.

### 3.1 Roles and Responsibilities

The CFIA, industry and third parties all play a role in compliance management. Each has important roles to play in contributing to a culture of compliance and working together towards a shared commitment to safe food.

#### 3.1.1 Industry

Industry is responsible for producing safe food and designing systems to ensure that they meet regulatory requirements. As such, they play a key role in the effective management of the food safety system. Individually or through their associations, there are significant opportunities for industry to provide leadership by promoting best practices, providing peer support and guidance or sharing knowledge and technical expertise within their sector.

Regulated parties are responsible for being knowledgeable of and complying with legislative requirements relevant to their business. In doing so, they should provide complete, accurate and timely information to the CFIA. Understanding the role Agency employees perform, and being aware

of the ethical obligations that govern the actions of CFIA officials are part of the broader obligations of regulated parties.

### 3.1.2 Third Parties

Third parties, such as industry-related non-government organizations (e.g. Canadian Federation of Independent Business), academia or other service providers (e.g. food technology centres), have expertise and knowledge in their fields and may offer guidance, programs, training, self-assessments and peer support to equip their members or sectors with the necessary tools to achieve compliance. There are significant opportunities to leverage their leadership capacity and expertise through partnerships (i.e. private sector or public/private). Likewise, other government departments at the federal and provincial/territorial levels may play an advisory role by providing expertise and tools.

### 3.1.3 The CFIA

The CFIA's [Compliance and Enforcement Operational Policy](#) (CEOP) sets out the Agency's approach to its compliance management activities, ranging from assisting regulated parties in understanding their obligations to comply with legislative requirements; monitoring and verifying compliance through inspection activities; to the various methods available to the CFIA to respond to instances of non-compliance (ANNEX B).

Verifying and enforcing legislative requirements are the principle roles of CFIA inspection staff; however, they also play a role in the generation of compliance through communication with regulated parties. It should be noted that compliance promotion does not diminish the CFIA's ability to take enforcement action when necessary, but complements it. Interpretation of legislative requirements falls to the Agency's program management.

As committed to in the Agency's [Statement of Rights and Service](#), CFIA staff are dedicated to quality service through consistent, professional, timely and fair practices. This includes: outlining legislative requirements; explaining the reasons for inspection decisions; making it easy to contact the Agency and to receive information; directing stakeholders to information from other organizations; and publicly reporting the outcomes of Agency regulatory activities.

## 3.2 Barriers to Compliance

Traditional views of enforcement assume that regulated parties will only comply with regulations if it is in their self-interest to do so. As a result, the traditional focus of compliance and enforcement has been on punitive approaches and penalties in response to non-compliance, to act as a deterrent. Today, these assumptions are being challenged in favour of a broader identification of motivations for compliance, the benefits of pro-active prevention and in turn, and a broader range of responses.

Barriers to compliance can range from lack of knowledge or technical specialization to inadequate financial resources or infrastructure, to difficulty complying with legislation that is outdated or not in line with modern industry practices. It is important to recognize that compliance promotion does not

imply a one size-fits-all approach. For example, a lack of knowledge and understanding of requirements may be addressed through the provision of information and technical guidance. Financial barriers to compliance may be addressed through technical assistance programs, greater flexibility in approaches to achieve compliance or through peer support. Transparency and public pressure can exert influence when the barrier to compliance is simply an unwillingness to comply. Finally, lack of scientific knowledge surrounding new and emerging hazards and technologies can be addressed through the sharing of academic research.

### **3.3 Small Business Constraints**

Small businesses may be particularly challenged in meeting their regulatory obligations for a variety of reasons. Limitations related to human, financial, technical and time resources represent potential barriers that could affect the ability of these businesses to achieve compliance. While larger businesses may employ specialized expertise to help them understand and comply with legislative requirements, small businesses generally rely on the information that is made available to them by the regulator or industry associations. Likewise, the ability to innovate and adopt new methods of production or processing, while maintaining compliance may be easier for larger businesses with the financial capital and infrastructure to do so.

## **4.0 Why Focus on Facilitating Compliance?**

### **4.1 Aligning Roles and Responsibilities**

The CFIA has generally focused its compliance promotion efforts at the front line, with the first point of contact being inspection staff. However, it is challenging for inspectors to carry out their inspection duties and provide the level of assistance and support that some regulated parties may need in understanding their requirements (e.g. small businesses), while maintaining the regulatory independence that Canadians expect. Generally speaking, the role of the inspector can be compared to that of a referee, providing a fair and independent regulatory decision, rather than a coach, providing tailored guidance to achieve compliance.

The provision of advice on how best to achieve legislative requirements may be best delivered by third parties, such as industry associations, academic experts, other government departments (including provincial/territorial governments) or external parties (e.g. food technology centres). These parties tend to have the leadership capacity, technical expertise and specialized knowledge required to develop assistance programs that are tailored to meet the needs of specific sectors or businesses.

### **4.2 Aligning Tools for Consistency**

The Agency's Inspection Modernization initiative is re-examining the CFIA's separate food programs to create consistency across commodities, while shifting to a more pro-active and preventive approach. This work will result in the development of a single food program and an improved inspection delivery model.

While the Agency has developed a wide variety of education tools for regulated parties as part of its compliance and enforcement toolbox (e.g. fact sheets, guidance documents, posting of enforcement data), there is no overarching strategy for compliance promotion. Regulated parties continue to identify issues with the inconsistent provision of information, the extent to which materials are in plain language and the application of these tools across commodities and programs.

The alignment of the various tools provides an opportunity to promote consistent compliance and enforcement responses across all food commodities and facilitate regulated parties' understanding of legislative requirements.

### 4.3 Aligning Efforts to Support Modernization

Changes to modernize food safety regulations, programs and inspection delivery will require guidance to regulated parties to help them understand and comply with requirements. For example, under CFIA's Inspection Modernization initiatives food importers will be required to be licensed and implement mandatory preventive control plans. Promoting awareness and understanding of these requirements will be key in generating compliance, particularly from parties that have not been registered or licensed by the CFIA in the past.

The CFIA is also embarking on a Regulatory Modernization Initiative as a systematic and deliberate approach to modernize all of the Agency's regulations. As part of this initiative, the CFIA is proposing a shift to a more outcome-based approach, where feasible, which provides regulated parties with increased flexibility to decide what business processes and controls they should undertake to meet the regulatory requirements.

More flexibility may present challenges for regulated parties lacking the capacity to develop systems and process controls that would easily permit their transition to outcome-based regulation (i.e. small business). As such, it will be important to provide additional guidance on the achievement of outcomes, particularly in the period before regulations take effect. Wherever possible, the Agency will provide examples of model systems. As a result, if the model is followed, both the regulator and regulated party can be relatively confident that the regulatory outcome will be met.

As the Agency moves towards inspection modernization and an outcome-based regulatory framework, it is an opportune time to explore innovative approaches being undertaken by other organizations in Canada and around the world with respect to compliance promotion. The Agency is also working on a number of complementary initiatives that will support the movement towards a compliance promotion strategy (Annex A). The development of a CFIA strategy to formalize and expand on its current compliance promotion activities includes leveraging and encouraging existing and future work in this area by partners in the public and private sector.

## 5.0 Domestic and International Approaches to Compliance Promotion

Recognizing that a range of barriers can impede compliance, regulatory organizations worldwide are including a more pro-active approach to achieving compliance in their compliance management toolboxes.

Best practices of both industry and regulatory organizations stress the following four core pillars that serve to promote the observance of requirements:

- Education and outreach;
- Technical assistance ;
- Compliance incentives; and
- Transparent communication.

Within these overarching core pillars, a number of organizations are using innovative approaches to help regulated parties achieve and maintain compliance:

### i) Partnerships

While regulators play a key role in the communication of regulatory requirements to industry, the development and dissemination of expert knowledge and advice may be well placed in other sectors. Government partnerships with third parties, such as industry, trade associations or academic institutions can be used to exchange information, ideas and current research with regulated parties. For example, some regulatory organizations are forging partnerships with universities to provide regulated parties with expert guidance on technical subjects (e.g. USDA National Institute of Food and Agriculture extension partnership with universities). There are also industry associations with strong capacity to provide knowledge, expertise and guidance to their sectors (e.g. Canadian Horticultural Council program and associated tools, such as CanadaGAP).

The benefits of this approach go beyond the role of the regulator, as third parties may also provide advice on ways to improve efficiency and effectiveness, without compromising compliance.

### ii) Cross-Compliance

The concept of cross-compliance involves using one program to achieve the desired outcomes in another program. Cross compliance may be developed between different organizations or between different programs within an organization. Historically, cross-compliance has been used by regulatory organizations to encourage regulated parties to meet legislative requirements by coupling them to income support schemes. To be eligible to receive financial support payments, a regulated party would need to demonstrate compliance with the requirements of a particular regulatory program. For example, in order for cattle processors to receive infrastructure enhancement funding under

Agriculture and Agri-food Canada's Slaughter Improvement Program, they were required to meet food safety standards of the CFIA.

### iii) Media

As businesses move toward increasing their use of the internet, regulatory organizations are responding in kind. Interactive websites where regulated parties can access and create customized checklists, templates, risk assessments and other tools are becoming more available. Likewise, the use of webinars, Podcasts and YouTube videos are showing promise for training and education purposes (e.g. USDA FSIS Podcasts – Protecting Food during Transportation).

### iv) Real-Time Information

The popularity of social media has generated an expectation of instant information. Real-time assistance through platforms such as Facebook and Twitter allow regulators to provide regulatory updates and other information to a broad audience in a timely fashion. These platforms also provide opportunities to share best practices. In addition, some organizations are also using hotlines and online question and answers to provide timely information and assistance (e.g. AskFSIS, a question and answer repository of the US Department of Agriculture, Food Safety Inspection Service <http://askfsis.custhelp.com/>).

### v) Business Portals

A number of organizations are offering their industry stakeholders improved service through specialized portals, some of which are focussed on small businesses. These portals permit businesses to find information, access training opportunities, and conduct transactions (e.g. paying fees; applying for permits and licenses). Materials are provided in plain language, are laid out in a clear and logical fashion, and are easily searchable (e.g. Scotland and Northern Ireland NetRegs <http://www.netregs.org.uk/>).

## 6.0 A Strategy to Formalize an Approach to Compliance Promotion

### 6.1 Pillars of a Proposed Compliance Promotion Strategy

Based on common components found in literature and in approaches seen in other jurisdictions, four pillars are being proposed to serve as a foundation for a compliance promotion strategy. Partnerships between government, industry, their associations, academic institutions and non-government organizations will be critical to advancing work in these areas.

**Pillar 1: Education**

Education involves proactive information sharing in a way that is targeted, meaningful, and informative. Education materials refer to printed information materials, information sessions, or on-line learning that is self-directed.

**Pillar 2: Technical assistance**

Technical assistance refers to commodity-based guidance, interpretation of requirements and self assessment tools. Technical assistance is distinguished from education in that it is interactive and may involve real-time assistance.

**Pillar 3: Transparent Communication**

Transparent communication refers to the posting of compliance and enforcement data and information, and industry self-monitoring. Informed consumers may exert influence in the market through their purchasing decisions and by building support and pressure for compliance.

**Pillar 4: Compliance Incentives**

Compliance incentive activities refer to the use of benefits and/or penalties to elicit compliance. Compliance incentives may involve the pursuit of cross compliance measures with other government departments or within the CFIA.

The table below outlines examples of the various types of activities that could be undertaken, either individually or in partnership, within each of the four proposed pillars.

Pillars of a Proposed Compliance Promotion Strategy	Examples of Potential Applications
<b><i>Education</i></b>	<ul style="list-style-type: none"> <li>• An enhanced online search function permits faster and more targeted retrieval of information.</li> <li>• Guidance documents are developed from both a stakeholder and CFIA employee perspective</li> <li>• Information dissemination is enhanced through social media, such as Facebook and Twitter.</li> <li>• Webinars and YouTube videos provide demonstrations on key topics.</li> </ul>
<b><i>Technical Assistance</i></b>	<ul style="list-style-type: none"> <li>• Requirements are interpreted in plain language synopses to complement legal documents.</li> <li>• Training opportunities are provided in partnership with other government departments, industry associations, non-government organizations and/or academia.</li> <li>• Model systems are provided as examples.</li> <li>• Programs provide small businesses with technical assistance and</li> </ul>

	<p>guidance to improve their capacity to meet legislative requirements.</p> <ul style="list-style-type: none"> <li>• Searchable question and answer repository allows regulated parties to find consistent information by topic and by commodity.</li> <li>• Customizable templates, self-assessments and checklists are available for regulated parties</li> </ul>
<b>Transparent Communication</b>	<ul style="list-style-type: none"> <li>• Industry best practices are highlighted as examples.</li> <li>• Compliance and enforcement data is shared publicly.</li> </ul>
<b>Compliance Incentives</b>	<ul style="list-style-type: none"> <li>• Documentation of compliance history supports the ability to adjust inspection frequencies.</li> <li>• Support programs are conditional on compliance with regulatory requirements.</li> <li>• License suspensions and Administrative Monetary Penalties act as deterrents</li> </ul>

## 7.0 Proposing a Path Forward

The Compliance Promotion strategy will be developed using the ideas outlined in this discussion paper. Feedback from industry, as well as best practices of other government departments in Canada and regulatory organizations internationally will also be taken into consideration. As a key component of inspection modernization, compliance promotion will play an important part in realizing the Agency’s focus on prevention.

## 8.0 Opportunities for Input

This discussion paper is a first step in generating feedback on the Agency’s early thinking on formalizing a compliance promotion approach. You are encouraged to provide comments and suggestions on the concepts outlined in this discussion paper. Comments can be sent to the following email:

[CFIA-Modernisation-ACIA@inspection.gc.ca](mailto:CFIA-Modernisation-ACIA@inspection.gc.ca)

All comments will be considered as the CFIA continues to refine its approach to compliance promotion.

Thank you for your participation.

## ANNEX A

### CFIA COMPLEMENTARY INITIATIVES SUPPORTING COMPLIANCE PROMOTION

The Agency is working on a number of complementary initiatives that will support the movement towards a compliance promotion strategy, as set out below:

#### **Complaints and Appeals**

The Agency's complaints mechanism provides stakeholders with a more transparent and accessible way to register complaints and appeals. Data from this initiative can help to improve information to regulated parties.

#### **Transparency**

The CFIA publicly releases useful and timely information on Agency programs and services, requirements, and outcomes of its enforcement actions and decisions. Enhanced public information provides a mechanism to discourage non-compliance through pressure from consumers and industry peers.

#### **Information Management and Technology**

The CFIA is making concrete investments in its IM/IT infrastructure to help businesses interact with the Agency electronically. A single window portal with CBSA for importing and exporting; the development of an electronic service delivery platform for online licensing, registration and payments; and an online labelling tool are examples of new initiatives already underway.

#### **Red Tape Reduction**

Opportunities to reduce regulatory burden such as plain language interpretations, applying a small business lens to regulations, and "one for one" regulations (replacing an old regulation with a new regulation rather than adding new regulations) have been implemented by the CFIA.

#### **Centres of Expertise**

The CFIA recently announced it will be creating sixteen Centres across Canada to provide industry and CFIA inspectors with better, more consistent access to information and advice. The sixteen Centres, expected to be implemented over the next few years, will consolidate and co-locate expertise for specific programs. This will provide stakeholders with clearly identified access to specialized knowledge, interpretation, advice and guidance.

## ANNEX B

### THE CFIA'S COMPLIANCE AND ENFORCEMENT CONTINUUM

The Agency's inspection activities are based on the concept of a compliance and enforcement continuum set out in the CFIA's [Compliance and Enforcement Operational Policy](#) (CEOP). The Agency may use a number of different mechanisms along the compliance and enforcement continuum, to inform consumers and regulated parties of the requirements that must be met.

#### Generating Compliance

Communication with regulated parties is an effective tool in generating compliance. Compliance is facilitated when the legislative requirements are clearly articulated and accessible to regulated parties. The CFIA provides information to regulated parties and encourages compliance through various communication activities, such as outreach (e.g. Canadian Meat Council – CFIA industry information days); fact sheets; guidelines; and frequently asked questions.

#### Monitoring and Assessing Compliance

The CFIA assesses compliance with legislative requirements through its inspection activities, including audits, compliance verifications, monitoring, surveying, taking samples and conducting laboratory analyses. Information and clarity on requirements may be provided to regulated parties during or after an inspection.

#### Responding to Non-compliance

Once non-compliance has been identified, the CFIA responds appropriately. Specific responses can be directed at the product and/or the regulated party. There are a range of tools available to the CFIA including, but not limited to, a letter of non-compliance; the suspension, revocation or cancellation of licences, registrations or permits; the issuance of administrative monetary penalties (AMP), where applicable; and referral for prosecution.

The reporting of enforcement actions taken by the CFIA encourages greater compliance and informs the public of any non-compliant activities undertaken by regulated parties.