

From: Jane Proctor <jproctor@cpma.ca>

Date: October 14, 2020 at 9:15:15 AM PDT

To: Kate Tynan <tynan@nwhort.org>

Subject: Flexibility for Lot Codes on Consumer Prepacks if Compliance is Not Possible Due to COVID Impacts

Dear CPMA member,

After months of efforts, CPMA received the following letter today outlining CFIA's intended enforcement discretion relative to the inability to label produce with lot codes. This was in response to industry's concerns that due to unforeseen impacts related to COVID, it would be impossible for some to be in compliance on January 15, 2021 with the requirement that all consumer prepackaged items include a lot code.

If your organization faces unforeseen impacts from COVID leading to an inability to comply as of January 15, 2021, please read the following carefully and be prepared to provide the necessary information should your non-compliant consumer items be inspected. In particular, you must be ready to provide an explanation of how COVID-19 led to the need to label food without the lot code and steps being taken to become compliant. (See the highlighted bullets in the letter below.) Example of explanations of COVID impacts could include: shortages in labour to perform the new tasks related to compliance, inability to secure new packaging or equipment/software required, etc. CPMA strongly urges that this information is readily available should an inspection occur.

It is important to remember that this flexibility in compliance is not an exemption and part of flexibility shown during a potential inspection must be supported by the information noted below. It should also be noted that the period during which this flexibility will be permitted is not defined and industry is strongly encouraged to make every effort to comply as COVID impacts diminish.

Here is the text from CFIA:

Dear Jane,

This letter follows up on a series of communications we have had with you and others regarding the challenges some of your members face due to the COVID-19 pandemic and its impact on their anticipated compliance with the lot code labelling requirement for consumer prepackaged fresh fruits or vegetables (FFV). The enforcement date for this requirement is starting January 15, 2021.

Lot code labelling is crucial to enable trace back, to support the identification of the root cause during a food safety investigation, and to more precisely identify implicated products during a food recall. In addition, the importance of the lot code labelling requirement in the FFV sector is becoming more and more evident, as illustrated in recent outbreak investigations involving romaine lettuce, and more recently, fresh onions and fresh peaches.

We are pleased to hear that many of your members are already compliant with the lot code labelling requirements. We are confident the percentage of compliance will continue to increase as a result of the

flexibility that we had provided around “growing region” and utilizing the “name and principal place of business” as an option for complying with the lot code labelling requirement.

*We recognize the challenges that some of your members continue to face due to the COVID-19 pandemic. Consistent with considerations provided to other food sectors impacted by COVID-19, **the CFIA will apply enforcement discretion in relation to the lot code labelling requirement** through the [Standard Regulatory Response Process to determine compliance](#). This process takes into consideration actual or potential harm, compliance history and intent.*

To facilitate this, it is important that impacted companies keep documentation, including the following:

- ***traceability documentation, as required under the Safe Food for Canadians Regulations;***
- ***explanation of how COVID-19 led to the need to label food without the lot code***
- ***steps being taken to return to compliance at the earliest opportunity; and***
- ***any actions taken to prevent or minimize risk to human health***

We trust that this approach will provide the needed flexibility to those FFV companies who are struggling due to the COVID-19 pandemic.

Sincerely,

*Kathy Twardek
A/Senior Director, Food Program Integration Division
Food Safety and Consumer Protection Directorate
Policy and Programs Branch
Canadian Food Inspection Agency*

Members are reminded that the [Traceability Guidance Document for Industry Compliance with the SFCR](#) is available via the website. (This document is currently being updated in consultation with CFIA to reflect additional flexibility around lot codes.)

As always, please don't hesitate to contact CPMA staff with questions on this and other topics related to SFCR compliance and labelling. Jeff Hall (jjhall@cpma.ca), Sally Blackman (sblackman@cpma.ca) and myself are here to help.

All the best,

Jane

Jane Proctor
Vice President Policy & Issue Management | Vice-présidente, Gestion des politiques et des enjeux

Canadian Produce Marketing Association | Association canadienne de la distribution de fruits et légumes

162 Cleopatra Drive | Ottawa, ON K2G 5X2

Tel: (+1) 613-226-4187 x212 | Mobile: (+1) 613-799-3831 | Fax: (+1) 613-226-2984

jproctor@cpma.ca | www.cpma.ca | www.halfyourplate.ca



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