

The Power of Government

by Ronald Doering



A CFIA INSPECTOR STOPPED at a farm and talked with the old farmer; "I'm going to inspect your farm." The old farmer said, "You better not go in that field." The CFIA Inspector said in a wise tone, "I have the authority of the Federal Government with me. See this CFIA card? I am allowed to go wherever I wish on agricultural land." So, the old farmer went about his farm chores. Later, the farmer heard loud screams and saw the CFIA Inspector running for the fence and close behind was the farmer's prize bull. The bull was madder than a full nest of hornets and the bull was gaining at every step. The old farmer called out, "Show him your card!"

While the CFIA card may not carry a lot of weight with the prize bull, no one in the food industry should have any illusions about the power of government.

All along the food chain, the government has extraordinary legal powers. At the input stage, for example, seeds, feeds and fertilizers are heavily regulated with their own federal acts that give sweeping powers to the CFIA. While at one time feeds and fertilizers received only modest attention from government, there is clearly an understanding that these inputs are closely related to food safety so significant new resources have been devoted to their oversight.

Both the Plant Protection Act and the Health of Animals Act have hundreds of pages of regulations that are strictly enforced by the CFIA that has wide powers of search, seizure and detention for non-compliance. These extraordinary powers can be exercised without any prior authorization from a court.

The main food Acts – Canada Agricultural Products Act, Meat Inspection

Act, Fish Inspection Act, Canadian Food Inspection Agency Act and the Food and Drugs Act – all grant extensive enforcement powers to the CFIA, which do not require any prior court approval. The Canadian Food Inspection Agency Act grants mandatory recall powers to the CFIA, a power not enjoyed by US regulators.

The CFIA has also recently begun to take food companies to criminal court for various acts of non-compliance. In all cases the offences are strict liability offences, that

operating licences, HACCP approvals and a host of certifications and registrations, which, if lost, can effectively close down a business.

To assist it in the thousands of investigations that it undertakes every year, the CFIA has a national laboratory system with state-of-the-art facilities and can also draw on Health Canada's scientific and laboratory expertise.

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is, that the Crown need only prove that the prohibited acts were committed; there is no need to prove that the company had any guilty intent or, for that matter, were even aware that an offence had been committed. Sentencing can and does include large fines and could involve imprisonment. Defences are limited to the narrow one of due diligence.

In addition to wide search, seizure and detention powers, the power of mandatory recall and the power to lay criminal charges, the CFIA has the power to stop products at the border, order the destruction of products, and summarily withdraw

and safety, the CFIA has extensive powers of investigation and enforcement.

The bull may be able to ignore the CFIA inspector: you cannot. ■

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