



# Keeping Trade on Track

Education | Mediation | Arbitration | Networking



## Safe Food for Canadians Regulations

Regulatory Requirement for a DRC Membership



# Overview

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## 1. The DRC

- Founding Principles
- Our Work: Comprehensive Risk Management

## 2. CFIA Safe Food for Canadians Regulations (SFCR)

- **Trade and Commerce and the Role of the DRC**
- Canadian Grade Compendium: Volume 2 – Fresh Fruit or Vegetables
  - Part 1: Grade Requirements for Fresh Fruit
  - Part 2: Grade Requirements for Fresh Vegetables



# About the DRC

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The United States, Canada and Mexico produce industry and governments had a collective vision for:

- **a unified system for fruit and vegetable trade that would avoid trade irritants and facilitate effective trade dispute resolution**
  - **a strengthened North American trading block for fresh fruits and vegetables**
  - **each country having a dispute resolution system, a licensing and inspection regime and backed by an insolvency tool**
- DRC was established in 2000 through the provision of NAFTA Article 707 pertaining to dispute resolution (business-to-business private commercial disputes. *(note: changes to NAFTA will not impact DRC)*).
  - While a dispute resolution system existed in the U.S. under the PACA, the pre-NAFTA regulatory system that prevailed in Canada, through the *Canada Agricultural Products Act* (CAP Act), proved to be ineffective in resolving the majority of disputes and included no provision to address payment in situations of insolvency.
  - DRC awards are enforceable in most countries in the world.



# Vision and Founding Principles

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## In 2000, the DRC was established to:

1. Address the broken dispute resolution system in Canada.
2. Strengthen destination inspections.
3. Work toward single “body” licensing to integrate the *CFIA Licensing and Arbitration Regulations* requirement for a Produce Licence with the requirement for a DRC Membership.
4. Develop and implement an insolvency tool in Canada (i.e.: PACA-like trust).

## Status 2018

- ✓ DRC (2000)
- ✓ Destination Inspection Service (2006)
- ✓ *CFIA Safe Food for Canadians Regulations* (proposed 2017)
- ✗ Outstanding



# Our Work

## Business-to-business commercial dispute resolution

**TRADING  
STANDARDS**

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**EDUCATION**

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**MEDIATION**

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**ARBITRATION**

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The DRC is a member-based organization that:

- offers a comprehensive and tailored suite of tools that build the knowledge and capacity of members to avoid or resolve disputes
- provides harmonized standards, procedures, services and education tools necessary to avoid and resolve disputes in the produce industry in a timely and cost effective manner

The DRC is well known and recognized for its suite of services, trading standards and the value of membership as an integral risk management component of a business plan for anyone engaged in buying, selling and transporting produce.



# SFCR: Important Distinctions

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The Regulations address:

- food safety and traceability (**licence**)
- trade and commerce - buy, sell, import, export fresh fruits and vegetables (**DRC membership**)

The DRC's role and responsibility assigned by the SFCR relate **only to trade and commerce**

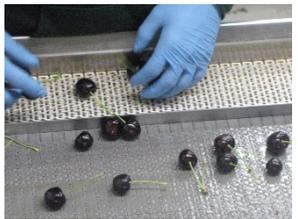
- some operations will require a food safety licence and a DRC membership
- some operations will require only a DRC membership
- **very few operations** would require a food safety licence but not a DRC membership





# SFCR: Food Safety and Traceability CFIA & Other Resources

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## 1. Licensing

[Fact Sheet: Licensing of Food Businesses](#)

## 2. Preventive Controls

[Fact Sheet: Preventive Food Safety Controls](#)

[A Step-by-Step Guide for Preparing a Preventive Control Plan](#)

[Self-Assessment Worksheet](#)

[Self-Assessment Worksheet for Importers](#)

## 3. Traceability [Fact Sheet: Traceability](#)

**General**

[Frequently Asked Questions for Food Businesses](#)

[Glossary of Key Terms](#)

**Import**

[Fact Sheet: Food Importers](#)

**Export**

[Fact Sheet: Food Exporters](#)

**CANADAGAP**  
[www.canadagap.ca](http://www.canadagap.ca)

 Canadian Horticultural Council | Conseil canadien de l'horticulture  
[www.hortcouncil.ca](http://www.hortcouncil.ca)

**CPMA  
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# Single Body Licencing: Integration of the CFIA Produce Licence and a DRC Membership

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## Proposed Regulatory Requirement

January 21, 2017

Canada Gazette

Publications Publishing Information



- The SFCR and proposed Regulations will replace the *Canada Agricultural Products Act* (CAP Act) and the *Licensing and Arbitration Regulations* (LAR), which included the requirement for a produce licence to buy and sell fruit and vegetables.
- **Under the LAR, there were 2 options** for authority to buy and sell fruits and vegetables:
  - A CFIA produce licence\*, **or**
  - Membership in the DRC
- Upon coming into force of the **SFCR there will be 1 option only:**
  - **DRC membership, unless exempted**
  - industry has supported moving to a single option and offered overwhelming support throughout the development and consultation phases of the *Safe Food for Canadians Act*

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\* As of January 31, 2018, 26 companies retain a CFIA Produce Licence



**CFIA  
Safe Food  
for Canadians  
Regulations**

**Division 2**

**Trade of Fresh  
Fruits and Vegetables**

**Prohibition:**

**26(1) It is prohibited for a person to:**

- (a) **sell or negotiate the sale on another person's behalf** of any fresh fruit or vegetable that is to be exported or to be sent or conveyed **from one province to another**;
- (b) **purchase or negotiate the purchase on another person's behalf** of any fresh fruit or vegetable that is to be imported or to be sent or conveyed from one province to another;
- (c) **receive or receive on another person's behalf** any fresh fruit or vegetable that has been imported or sent or conveyed to **from one province to another**; or
- (d) **send or convey from one province to another or import or export** any fresh fruit or vegetables.

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\* a person can be an individual or an organization – including an association, company and corporation; includes other recognized legal entities such as LLC, partnerships, etc.

**Exemption – persons \***

**(2) Subsection (1) does not apply to:**

- (a) a person who is a **member in good standing of the Fruit and Vegetable Dispute Resolution Corporation**, a corporation incorporated under Part 2 of the *Canada not-for-profit Corporations Act*, as described in its bylaws;
- (b) a person **who only sells** fresh fruits or vegetables directly to consumers if that person **paid less than \$100,000 for the fresh fruits and vegetables that they sold to consumers within the previous 12 months**;
- (c) a person **who only purchases, sells or negotiates the purchase or sale on another person's behalf**, sends or conveys from one province to another or imports or exports **less than one metric ton (2 205 lb) of fresh fruits or vegetables per day**;
- (d) a person who only **sells fresh fruits and vegetables that they have grown themselves**; or
- (e) an organization that is a **registered charity** as defined in subsection 248(1) of the *Income Tax Act* or a club, society or association described in paragraph 149(1)(1) of that Act.



**EXEMPTION COMPARISON**  
**Proposed SFCR and the Current CFIA**  
**Licensing and Arbitration Regulations**

<b>PROPOSED Safe Food for Canadians Regs <sup>1</sup></b>	<b>CURRENT CFIA Licensing &amp; Arbitration Regs <sup>2</sup></b>
(a) a person who is a <b>member in good standing of the Fruit and Vegetable Dispute Resolution Corporation</b>	dealers who are <b>members of the Fruit and Vegetable Dispute Resolution Corporation or hold a CFIA Produce Licence</b>
(b) a person who only sells fresh fruits or vegetables directly to consumers if that person <b>paid less than \$100,000 for the fresh fruits and vegetables that they sold to consumers within the previous 12 months</b>	dealers who market agricultural products directly to consumers if the <b>total invoice value of the products during the current calendar year is less than \$230,000</b>
(c) a person who only purchases, sells or negotiates the purchase or sale on another person's behalf, sends or conveys from one province to another or imports or exports <b>less than one metric ton (2 205 lb) of fresh fruits and vegetables per day*</b> * defined as "within a single day"	does not currently exist as an exemption under the CFIA Licensing & Arbitration Regulations
<b>the exemption no longer exists</b> for dealer sales (i.e.: selling activities) within the province where their business is located; both buying and selling inter provincially are regulated	dealers who market (interprovincially) only agricultural products purchased within the province (intraprovincial) where their business is located
(d) a person who only <b>sells fresh fruits or vegetables that they have grown themselves;</b>	dealers who <b>market only agricultural products that they grow themselves</b>
(e) an organization that is a <b>registered charity</b> as defined in subsection 248(1) of the <i>Income Tax Act</i> or a <b>club, society or association</b> described in paragraph 149(1)(1) of that Act	<b>agricultural products that are donated to any organization that is a registered charity</b> as defined in subsection 248(1) of the <i>Income Tax Act</i> or is a <b>club, society or association</b> described in paragraph 149(1)(l) of that Act
<b>Part 2, Division 1 - General 22 (1): Exemption</b> – import, export and interprovincial trade: The Act and these regulations do not apply in respect of food that (d)(i): is imported from the United States into the Akwesasne Reserve for use by any individual who has established permanent residence on that Reserve	<b>agricultural products that are imported from the United States onto the Akwesasne Reserve for use by an individual who has established permanent residence on the Akwesasne Reserve</b>

<sup>1</sup> SFCR Division 2 - Trade of Fresh Fruits and Vegetables

<sup>2</sup> To be repealed upon the Coming Into Force of the SFCR (anticipated mid-2018)



## Who is most likely to be impacted by the SFCR requirement for a DRC membership?

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Previously, persons who bought fresh fruits and vegetables within a province but sold outside of the province were **not required** to have either a CFIA licence or a DRC membership.

**NEW** - Under the proposed SFCR, persons **will require** a **DRC membership**.

### **Example:**

- I buy from my neighbours and sell the product to buyers outside of the province or country



## Who is most likely to be impacted by the SFCR requirement for a DRC membership?

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A person who only **sells fresh fruits or vegetables directly to consumers** if that person paid **more than \$100,000** for the fresh fruits and vegetables that they sold to consumers within the previous 12 months.

- **Important note: The previous exemption threshold was \$230,000**

### **Examples:**

- Small independent retailer who purchases > \$100,000 from outside of the province.
- Farm market or roadside stand that purchases > \$100,000 from outside of the province.
- The provision is not applicable to purchase and sale within provincial borders.

## Who is most likely to be impacted by the SFCR requirement for a DRC membership?

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A person who only **purchases, sells or negotiates the purchase or sale on another person's behalf**, sends or conveys from one province to another or **imports or exports more than one metric to (2 205 lb) of fresh fruits and vegetables per day.** **NEW**

### Examples:

- Farm market or roadside stand.
- Those who sell or purchase outside of their province of residence/business.
- Vendors selling to jobbers who supply farm markets, restaurants or institutions across a provincial border.
- The provision is not applicable to purchase and sale within provincial borders.



## Unless exempt, the SFCR requirement for a DRC membership applies to the following:

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- Agent, Grower's Agent, Broker
- Farm Markets & Direct to Consumers
- Grower, Shipper, Packer
- Retail, Foodservice & (Certain) Restaurants
- Wholesalers & Distributors

**Note:** DRC has developed a self-assessment tool for each segment to assist in determining if one is subject to the regulatory requirement.

# GRADE STANDARDS and the (proposed) SFCR

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Under the SFCR, grade requirements in existing regulations would be consolidated into two documents that would be incorporated by reference in the proposed Regulations:

1. The proposed *Beef, Bison and Veal Carcass Grade Requirements* would be maintained by the Canadian Beef Grading Agency (CBGA) according to the conditions outlined in a Memorandum of Understanding between the CBGA and the CFIA; and
2. The proposed **Canadian Grade Compendium** would consolidate **all other Canadian grade requirements** into a single document organized by commodity and maintained by the CFIA.

**Result:** Canadian Grade Compendium (as presented in proposed SFCR)

Volume 2 – Fresh Fruit or Vegetables

Part 1: Grade Requirements for Fresh Fruit

Part 2: Grade Requirements for Fresh Vegetables



# (CFIA) Canadian Grade Compendium Volume 2 – Fresh Fruits or Vegetables

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## The Compendium

- **is the lexicon, or generally recognized and accepted language, for describing fruit and vegetable commodities and associated defects**
  - this common lexicon is necessary in order for inspectors and marine surveyors to communicate with buyers and sellers who are separated by geographic distances
- **establishes expectations for arrival condition given that fresh fruits and vegetables are generally purchased unseen**
  - grade standards are the basis for establishing a breach of contract and are an essential business-to-business tool
  - most countries have established domestic grade standards; the most in use are those in Canada, the United States, the UNECE and CODEX. As such, grade standards are truly prevalent and integral to global trade in fruits and vegetables

# GRADES MATTER

## The importance of grade standards

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The Canadian and US grade standards:

- are foundational to the DRC's Good Arrival Guidelines and Trading Standards, which serve to establish evidence and resolve trade disputes
- provide a measure of consumer confidence and have a direct link to food labelling and related modernization initiatives

For the DRC, the importance and relevance of grade standards cannot be overstated:

- grade standards, and the availability of a credible and timely destination inspection service, are core to the DRC's mandate and member services
- the Compendium is a key component of the DRC's ability to deliver services to its membership

# SUMMARY

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1. Be aware of and understand the SFCR regulatory requirement for a DRC membership to buy, sell, import or export fresh fruits and vegetables.
2. Self-assess to determine your status:
  - \_\_\_\_\_ **I am subject to** the SFCR and **require** a DRC membership
  - \_\_\_\_\_ **I am exempt from** the SFCR and **do not require** a DRC membership
  - \_\_\_\_\_ **I am not certain** (contact the DRC Help Desk for assistance)
3. DRC Membership benefits are extensive and provide significant value and business protection.
4. Maximize the expertise and availability of DRC Team members and resources.



### The Fruit and Vegetable Dispute Resolution Corporation

A non-profit, membership based organization serving the produce trade. DRC provides harmonized standards, procedures and services to our members to help them avoid commercial disputes.

[Learn More](#)



### Proposed CFIA regulatory requirement

The proposed Safe Food for Canadians Regulations include a regulatory requirement for a DRC membership for Canadians.

[Learn More](#)



## Help Desk



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### Exporting to Canada?



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# ACKNOWLEDGEMENT

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This project has been funded through the Assurance Systems stream of the AgriMarketing program under Growing Forward 2, a federal-provincial-territorial initiative.



Ce projet est financé sous le volet Systèmes d'assurance du programme Agri-marketing de Cultivons l'avenir 2, une initiative fédérale-provinciale-territoriale.

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