

Farm Direct Marketing: Know the Regulations Food Claims



Alberta 
Government

Published by:

Alberta Agriculture and Rural Development
Rural Development Division
7000 - 113 Street
Edmonton, Alberta T6H 5T6

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Funding for this publication is provided by
Growing Forward 2, a federal, provincial, territorial initiative.

Copies of this publication are available from:

Publications Office
Alberta Agriculture and Rural Development
Telephone: 1-800-292-5697 (toll-free in Canada)
Edmonton: (780) 427-0391
E-mail: publications.office@gov.ab.ca

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Food Claims Overview

Farm direct marketing is the sale of food products directly to the consumer at a farmers' market, roadside stand, farm store, u-pick operation or public market, on-line or through community supported agriculture (CSA). Successful farm direct marketing involves consistently supplying safe, high-quality products in a clean, customer-friendly environment that supports the development of a trust relationship between you (the supplier) and your customers.

Producers and processors must be aware of the federal and provincial legislative requirements that must be met for producing and marketing agri-food products. Agri-food products are those food products that are made using agricultural products, ingredients or processes. You need to know and adhere to the legislation that applies to your farm direct marketing operation. Failure to comply with the legislation may lead to fines or other penalties and possibly, to decreased sales.

It is important to remember that federal law takes precedence over provincial law, which, in turn, takes precedence over municipal bylaws. Different acts and regulations often work together to define requirements.

An act is a written law or statute that has been enacted by a legislative body such as Parliament or the Legislative Assembly. A regulation, sometimes referred to as subordinate legislation, defines the application and enforcement of an act and is made under the authority of the act.

Both pieces of legislation have an effect on your business. In some cases, the regulation may be more pertinent, such as the Food Regulation under the *Public Health Act*. The *Public Health Act* does not directly address farmers' markets, but the Food Regulation contains an entire Part that outlines the requirements for a market.

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Introduction to Food Claims

This booklet outlines basic information about some of the various claims that can be made about food products, such as “organic” or “gluten free.” All food claims, regardless of where you sell your products, must comply with federal legislation.

The requirements for claims are set out in the following legislation:

- *Food and Drugs Act* (FDA) and Regulations (FDR)
- *Consumer Packaging and Labelling Act* (CPLA) and Regulations (CPLR)
- *Canada Agricultural Products Act* (CAPA) and Regulations (CAPR)

If you are considering making any type of claim to advertise or sell your product or to use on your label, you should contact your nearest Canadian Food Inspection Agency (CFIA) office for more information and guidance. Considerable time and resources may be needed to obtain approval for a claims statement.

You may need considerable time and resources to get your food claim approved – a food claim cannot be used without an approval.

Food Claims

A claim is any statement, image or advertising that states, suggests or implies that a food product has particular qualities relating to its origin, nutritional properties, composition, processing, nature or any other quality. For example, if you state, either verbally or in writing, that your products are “organic,” “natural,” “fresh” or “gluten free,” you are making a claim. There are very specific conditions that must be met if you are going to make any type of claim about your agri-food product.

According to the *Food and Drugs Act* and Regulations, you cannot process, sell, label, package or advertise any food in a manner that is false, misleading or deceptive or is likely to create an incorrect impression regarding its character, value, quantity, composition, merit or safety. You must avoid making any statements implying that consumption of your product will result in incredible performance or feats, for example, “Watch the pounds melt away by eating this product.”

The *Consumer Packaging and Labelling Act* prohibits you from applying a label to any prepackaged food product for sale or advertising that contains false or misleading information relating to the product. Qualifying statements or disclaimers cannot be used to correct a false or misleading statement. It is considered to be misleading if you use any expression, word, symbol or depiction that implies that an ingredient is present when it is not or to imply that an ingredient is not present when it is. For example, you should not claim that your food product is sugar-free if one of the components of an ingredient is fruit juice.

Words that have no explicit meaning or use partial truths when describing foods may create false, deceptive or misleading impressions about the food that can lead to claims being misunderstood by your customers. For example, the term “homemade” describes a food that is not commercially prepared as it implies that the food is prepared in a home.

Therefore, the use of the word “homemade” to refer to a food prepared in a commercial establishment permitted under the Food Regulation (Alberta) is considered misleading. The words “ultra” and “extra” and all other words, numbers, signs or symbols that modify the nature of a statement or claim shall not be used as part of the claim statement.

Federal regulations specify what wording can be used when making a claim statement, so consumers are not deceived or misled.

The federal Food and Drug Regulations (FDR) specify the wording that is to be used when making a claim statement. To assist consumers in making informed decisions, the Regulations establish criteria and standards for the various types of claims.

For example, to state the claim that Product X is “30% lower in fat than our regular granola bar,” specific conditions must be met:

- the “lower in fat” granola bar must have a minimum of 25 per cent less fat per reference amount than the similar reference food (for example, the regular granola bar)
- the similar reference food (for example, the regular granola bar) must not qualify as “low in fat”

The label for Product X must provide the following:

- identify the “similar reference food” (for example, the regular granola bar)
- state the amounts of the food being compared unless they are the same
- express the difference per serving of stated size as a percentage, a fraction or in grams

The term “reference amount” is the specific regulated quantity of a type of food usually eaten by an individual at one sitting. Reference amounts are set out in the FDR, Schedule M, and provide a uniform basis for claims.

“Similar reference food” means a food of the same type as the food to which it is compared, and the similar reference food has not been processed, formulated, reformulated or otherwise modified in a manner that increases or decreases the energy value or the amount of the nutrient that is the subject of the comparison. In the example above, the regular granola bar is the similar reference food for the fat-reduced Product X.

“Serving of stated size” or serving size refers to the quantity of food, as offered for sale, which can reasonably be consumed by a person at a single sitting and is expressed by weight, volume, fraction of the entire food or count, for example, one granola bar per serving. In order not to mislead consumers, the same serving size should be used whenever a serving size is mentioned on the label, for example, in the nutrition facts table, the directions for use, etc.

The reference amount does not have to be used as the serving size. Serving sizes may be determined by the manufacturer, but it is recommended that the sizes be chosen from within the ranges set out for the product category in the Industry Labelling Tool on the CFIA website.

Food claims can be positive, comparative or even negative, but all claims have to meet strict conditions.

The legislation allows you to make a claim for a product or its use by comparing it to an associated product, but only under specific conditions. A comparative claim, such as the granola bar example above, must meet the following conditions:

- involve foods of the same food group depending on the type of claim
- involve foods similar in character, composition or other attributes relevant to the comparison being made
- clearly identify the products being compared and the differences between them
- be based on differences that are both nutritionally and analytically significant

The three main types of comparative claims permitted:

- describe the reduction of a nutrient compared to a similar reference food, such as a salad dressing that has a lower fat content compared to the regular salad dressing
- state that a food has relatively less of a nutrient compared to a reference food of the same food group, such as a tofu burger having less fat than a beef burger
- describe a product that has relatively more of a nutrient compared to another product of the same category, such as a bran muffin having more fibre than a chocolate chip muffin

A negative claim statement relates to the following:

- the absence of a particular ingredient, substance or class of substances in a food because the substance is not inherent to the food
- a substance that is not present in the food either through direct addition or through carry-over, *or*
- a substance that has been removed from the final product

Claims that a food does not contain an ingredient or substance must be factual and not misleading. Generally, a negative statement pertaining to the absence or non-addition of a substance to a food is acceptable under the following conditions:

- 1) The statement is true. The ingredient, substance or class of substances claimed to be absent must be totally absent and must not have been added directly to the food or to any of its ingredients. For allergens and gluten sources, the acceptable level is defined as zero.
- 2) The statement is not misleading. Factual statements should not give a false impression about the product's composition and quality. For example, a claim of "no added water" for a pasta sauce when water has been added indirectly in the production of an ingredient gives an incorrect impression about the product's water content as compared to other pasta sauces. It is recommended that a positive claim be made instead, such as "made from fresh tomatoes."

Several types of claims can be made about food products:

- claims about the composition, quality, quantity or origin of a food product, for example: "butter cake," "fresh bread," "no M.S.G." and "Made in Canada"
- nutrient content claims describe, directly or indirectly, the energy value of the food or the amount of a nutrient contained in a product – Examples of nutrition claims are "low in sodium," "fat free" and "low in calories." Nutrient content claims are limited to those permitted by the Food and Drug Regulations.
- health claims are any representation in labelling or advertising that states, suggests or implies that a relationship exists between consumption of a food or a food ingredient and a person's

health – A health claim can be made with words or implied through the use of symbols, graphics, logos or other means such as a name, trademark or seal of approval.

This booklet will outline the requirements for the more common claims made about food products that are direct marketed. More detailed information on claims and the kinds of claims that can be made is available on the Canadian Food Inspection Agency website (www.inspection.gc.ca).

Composition, Quality, Quantity and Origin Claims

A label cannot overemphasize the presence or absence of an ingredient to make the product seem more desirable to a consumer. For example, it is misleading to overemphasize the presence of wheat germ in breakfast cereal when the amount present is the amount normally found in the grain used to make the cereal.

It is also misleading for product names to suggest, directly or indirectly, benefits or results that are not likely to be obtained from consuming the product, for example, using the term “Grandma’s Fresh Apple Pie” when frozen apples have been used for the pie filling.

Organic

The Organic Products Regulations under the *Canada Agricultural Products Act* define specific requirements for organic products to be labelled as organic. The Regulations require mandatory certification to the revised Canadian Organic Standards for agri-food products marketed as organic in import, export and interprovincial trade or for these products to display the federal organic logo.

While products produced and sold only in Alberta are not subject to the Organic Products Regulations, if you market your products as organic, you are expected to demonstrate that the product is organic.

Products marketed or labelled as “organic” must meet specific requirements.

Claims related to the method of production are subject to sections of the *Food and Drugs Act* and the *Consumer Packaging and Labelling Act*, which prohibit statements and claims that are false, misleading, deceptive or that create an erroneous impression regarding the product including the method of production. Marketing your products as organic when they have not been produced in accordance with the Canadian Organic Standards is considered to be misleading under the legislation and could be subject to investigation by CFIA.

According to the Organic Products Regulations, the term “organic” can only be used to label products with an organic content that is greater than or equal to 95 per cent. You can claim your product is organic, organically grown, organically raised, organically produced or any similar phrases only if the product is certified to be organic and the name of the certification body is

stated on the label. For multi-ingredient products, the organic contents must be identified as organic in the list of ingredients if you are selling your product outside Alberta.

Under the Organic Products Regulations, the claim “100% organic” is not permitted in Canada. All products with an organic content of 95 per cent or greater are considered organic and may be labelled with the word organic. The use of a percentage when it is greater than 95 misleads consumers and is therefore not permitted. The organic product packaging and labelling certification is valid for a 12-month period beginning on the day on which it is granted.

Your label may make the claim “contains X% organic ingredients” only if 70 to 95 per cent of the ingredients in your product are organic. You cannot state that your product is organic or use the organic logo. The food product must be certified, and the name of the certification body must appear on the label if you are selling your product outside Alberta.

If less than 70 per cent of your ingredients are organic, you can indicate which ingredients are organic in the ingredients list. For example, the ingredients can be listed as organic tomatoes, organically raised beef or organic wheat flour. Such products do not require certification and cannot use the organic logo.

The use of the term “certified organic” is considered misleading and is therefore not allowed under the Organic Products Regulations. The statement “certified by” or “certified organic by” immediately followed by the name of the certification body is acceptable as it identifies who has certified the product.

To make an organic claim or to display the organic logo, the Organic Products Regulations requires certification by a CFIA-accredited certification body according to the Canadian Organic Standards for agricultural products. Processors must develop an organic production system based on the Canadian Organic Standards and must then have their products certified by a certification body accredited under the Canada Organic Regime.



Figure 1: Canada Organic logo

The CFIA regulates the use of the organic logo, which is permitted only on products that have an organic content greater than 95 per cent and have been certified according to Canadian requirements for organic products. The use of the organic logo is voluntary.

Natural

The claim of being “natural,” including terms such as “nature,” “Mother Nature” or “nature’s way,” is often misused on labels and in advertisements.

The term “natural” is generally understood to mean the following:

- a food or ingredient produced through the ordinary course of nature without the interference or influence of humans
- no vitamins, mineral nutrients, artificial colouring or flavouring agents or food additives have been added to the food or ingredient
- no constituent or fraction of the food product or ingredient has been removed or significantly changed except for the removal of water

Some food additives, vitamins and mineral nutrients may be derived from natural sources and can be regarded as natural ingredients. In these cases, the acceptable claim would be that this food contains natural ingredients; however, you cannot describe the food product itself as natural since it contains an added component. Substances that impart flavours that have been derived from a plant or animal source may claim to be natural.

Marketing efforts should not convey the impression that some foods are better or nutritionally superior because they are natural or have been produced by nature.

Gluten Free

According to the Food and Drug Regulations, you cannot label, package, sell or advertise any food that states or implies it is gluten free if the product contains any gluten protein or modified gluten protein. Gluten protein is derived from any of the following grains: wheat, barley, oats, rye, triticale, kamut and spelt. A gluten free claim is not considered to be a statement about particular nutritional or health-related properties.

“Natural” and “gluten free” are popular food claims, but these claims are also regulated.

Processors are expected to make every reasonable effort to minimize the presence of gluten from incoming ingredients or cross-contamination. If a situation occurs where contamination results in gluten being present at a level less than 20 parts per million (ppm), the CFIA will follow up with the manufacturer for corrective actions. Twenty ppm is the level considered to be protective for the majority of people with celiac disease. If more than 20 ppm of gluten is present in a food labelled as gluten free, the product will be in violation of the Regulations, which could lead to enforcement action, including a recall, by the CFIA.

Local Food

The Canadian Food Inspection Agency is currently reviewing its food labelling approach. It is reviewing the food labelling regulations, guidelines and policies including claims such as use of the term “local.”

During this review, the CFIA is adopting an interim policy that recognizes “local” in the following way:

- food produced in the province or territory in which it is sold, *or*
- food sold across provincial borders within 50 km of the originating province or territory

This interim policy remains in effect until the CFIA's labelling review is complete. The use of the claim "local" is still subject to prohibitions relating to false and misleading claims of the *Food and Drugs Act* as well as the *Consumer Packaging and Labelling Act*.

The use of the term "local" for the purpose of making a claim should not be confused with a local origin claim as it relates to bilingual labelling. The interim policy does not exempt you from the need for bilingual labels if you are selling your product beyond the municipality in which it is manufactured, processed or packaged or beyond a local government unit immediately adjacent to the one in which it is manufactured, processed, produced or packaged.

The term "local" must not be confused with local origin claims that require bilingual labelling.

For more information on the requirements for bilingual labels, see the Agriculture and Rural Development (ARD) publication *Farm Direct Marketing: Know the Regulations – Food Labels*, Agdex 844-2.

Nutrient Content Claims

Nutrient content claims describe the energy value of the food or the amount of a nutrient contained in a food. "A good source of calcium" is an example of a nutrient content claim. The Food and Drug Regulations (FDR) specify the compositional criteria, the reference amount and any additional labelling requirements. Wording for nutrient content claims is prescribed in the legislation.

The compositional criteria for most nutrient content claims are based on regulated, standardized reference amounts for foods as well as the stated serving size for the particular food. Nutrient content claims are limited to those permitted by the FDR.

Specific guidelines govern statements that identify the amount of a nutrient in a food, for example, "source," "good source," "excellent source" as well as those that compare nutrient content, for example, "reduced," "less" "light." When a nutrient content claim is made, a nutrition facts table must be provided.

Light Claims

"Light" or any other phonetic spelling of the word, such as "lite," can be used in a number of ways. As a nutrition claim for energy or fat, "light" can only be used for foods that are reduced in fat or energy. To be able to make such a claim, a similar reference food that is representative of that food type must be used for comparative purposes. For example, to make a "reduced in fat" claim, the food product must contain at least 25 per cent less fat compared to a similar reference food.

The claim "lightly salted" is acceptable if the food contains 50 per cent less added sodium than the similar reference food, which is not low in sodium or salt.

"Light" can also be used to describe sensory characteristics of a food product. In these cases, the characteristic must be used as part of the claim (for example, lite tasting or light coloured). It must be clear what attribute is being described when using the term "light." The light claim referring to the carbohydrate or sugar content of a food is no longer permitted under the legislation.

Fat and Cholesterol Claims

Claims such as “100% fat free” or “X% fat free” are permitted under the legislation. Making such a claim may require additional information in the nutrition facts table. If you claim that your product is fat free or zero fat, then your food product must contain less than 0.5 grams of fat per reference amount and serving of stated size. If you make a “low in fat” or “low fat” claim, the food product must contain 3 grams or less of fat per reference amount and serving of stated size.

A “lower in fat” claim can be made if the food contains at least 25 per cent less fat per reference amount than the reference food. The reference food must be of the same food group¹, and the amounts of your product and the reference food must be equal.

Claims can be made for “light” food products as well as “fat free” when the appropriate conditions are met – make sure you check the Food and Drug Regulations.

Cholesterol claims are now linked with the trans fatty acid content and the saturated fatty acid content of foods. A “cholesterol free” or a “free of cholesterol” claim can only be made if the food contains less than 2 milligrams of cholesterol per reference amount and serving of stated size.

A “low in cholesterol” or “little cholesterol” claim is allowed if the food contains 20 milligrams or less of cholesterol per reference amount and serving of stated size. If the reference amount for a food group is 30 grams or 30 millilitres or less, there must be 20 milligrams or less of cholesterol per 50 grams of product.

To claim “reduced in cholesterol,” the food is processed so that it contains at least 25 per cent less cholesterol per reference amount of the food. The reference food must be a similar product of the same food group.

Salt (Sodium) Claims

Stating that salt has been added to a product is not considered to be a nutrient content claim. The word “salted” or a similar term used to indicate that salt has been added, for example “extra salt,” “salt water taffy,” “salt cod” or “salted peanuts,” does not exempt you from indicating the presence of salt in the nutrition facts table on your label.

When a salt claim is being made based on the use of potassium salts, the potassium content per serving of stated size must be declared in the nutrition facts table. This disclosure includes any form of potassium salts including food additives.

The claim “very low sodium” is not permitted in Canada. If you are making a “salt free” or “no sodium claim,” the food must contain less than 5 milligrams of sodium per reference amount and serving of stated size. Any food claiming to be “low in sodium or salt” shall contain 140 milligrams or less of sodium per reference amount and stated serving size. If the reference amount for a food group is 30 grams or 30 millilitres or less, there must be 140 milligrams or less per 50 grams of product.

¹Food group: a category of food that includes milk products and milk product alternatives, meat, poultry and fish and alternatives, bread and grain products, and vegetables and fruit

A “less salt” or “lower in sodium” claim can be made if the food contains at least 25 per cent less sodium per reference amount of food compared to the reference amount of a reference food of the same food group². On the label, you must indicate the reference food used for the comparison, the amounts of your product and reference food being compared and the specific difference in sodium content expressed as a percentage or fraction in milligrams per serving of stated size.

If making a “lightly salted” or “salted lightly” claim, the food must contain at least 50 per cent less sodium added than the sodium added to a similar reference food. If a “no added sodium or salt” claim is being made, the food cannot contain other sodium salts or ingredients that contain sodium that function as a substitute for salt. Other ingredients that give a salty taste to foods include hydrolyzed vegetable proteins, soy sauce, bouillon powder or cubes, soup mix, etc.

Using the terms “salt” and “sugar” properly in your food labelling means knowing the regulations.

Sugar Claims

Claims for sugar content are now restricted to those permitted under the legislation. The claim “no sugar added, sweetened with (name of the sweetening agent(s))” is no longer permitted for foods that contain added sugars, ingredients with added sugars or ingredients that function as an added sugar. These ingredients include sweetening agents, molasses, fruit juice, honey and maple syrup, all of which give a sweet taste to foods.

The “no added sugars” or “no sugar added” claims can be used on foods intended solely for children less than two years of age and products that meet the regulatory requirements. Such food must contain no added sugars, no ingredients containing added sugars or no ingredients that can substitute for added sugars. The sugar content cannot be increased through any means.

A “sugar free” or “zero sugar” food contains less than 0.5 grams of sugar per reference amount and serving of stated size. A “lower in sugar” or “lower sugar” claim can be made if the food contains at least 25 per cent less sugar, totalling at least 5 grams less, compared to the reference amount of a reference food of the same food group. Whereas a “reduced in sugar,” “sugar,” “lower in sugar” or “reduced sugar” claim can be made for food processed, formulated, reformulated or otherwise modified so that it contains at least 25 per cent less sugar for a total of at least 5 grams less sugar than the comparable reference amount of a similar reference food.

Health Claims

A health claim is any representation in labelling or advertising that states, suggests or implies that a relationship exists between consumption of a food or an ingredient in the food and a person’s health. A health claim must be truthful and not misleading and must be supported with scientific evidence before it can appear on a label.

The following is an example of an acceptable health claim: “A healthy diet containing foods high in potassium and low in sodium may reduce the risk of high blood pressure.”

²Reference food of the same food group: a food that can be substituted in the diet for the food to which it is compared and that belongs to the same food group as the food to which it is compared

There are several categories of health claims based on how the claims are regulated and evaluated:

- Disease risk reduction claims link a food or a food component to reducing the risk of developing a diet-related disease or condition. For example, “A healthy diet rich in a variety of vegetables and fruit may help reduce the risk of some types of cancer.” Five disease reduction claims have been authorized in the Food and Drug Regulations, and any food that meets the criteria for these claims may carry the claim using the prescribed wording.
- Therapeutic claims highlight the therapeutic effect of a food, food component or diet in treating, correcting or modifying a health-related disease or condition. An example is “Product ABC lowers blood cholesterol.” At present, no therapeutic claims have been approved for foods in Canada.
- Function claims are statements based on specific beneficial effects that consuming a food or a food constituent has on the normal functions or biological activities of the body. An example of a function claim is “1/3 cup of Cereal X contains 8 grams of fibre from coarse wheat bran, which promotes regularity.” A function claim must not refer directly or indirectly to the treatment or prevention of any disease, disorder or abnormal state or their symptoms. Such a claim may not state or imply that the food can correct or restore abnormal functions beyond the normal dietary effects of food.
 - Nutrient function claims are a type of function claim that describes the well-established roles of energy or known nutrients that are essential for the maintenance of good health or for normal growth and development. An example of a nutrient function claim is “Vitamin A aids in the development and maintenance of night vision.”
- General health claims are broad claims that promote health through healthy eating or provide dietary guidance. These claims do not refer to a specific or general health effect, disease or health condition. Information is provided on specific aspects of general health claims as they relate to vitamin and mineral nutrients, body weight, third-party endorsements and logos, heart symbols and guidance for healthy eating. An example of a general health claim is “Canada’s Food Guide recommends eating at least one dark green and one orange vegetable each day.”

To avoid making a health claim that could be misleading or misunderstood, a number of principles have been developed regarding the use of health claims:

- Claim statements should be meaningful and clear. Claims that are vague may not provide clear and meaningful information to your customers.
- Health claims should be based on science and supported by adequate scientific evidence.
- A person eating a healthy, balanced diet should be able to consume the amount of food required to benefit from the claim being made.
- When making a disease risk reduction claim, the food product should be part of a diet recommended for the appropriate disease.
- When making a function claim about the benefit of a nutrient, the food product should at least be a dietary source of the nutrient.

It is important that the meanings of claims are clear and that consumers are not misled. How a word or phrase is used may have a profound effect on the message. For example, the word “soothe” may be used to express the comforting qualities of a product, as in “a soothing cup of hot tea on a cold day.” When used in a different context, the statement could suggest a health benefit, such as “a soothing beverage to take away the aches and pains.” The latter statement would be considered a health claim and would be subject to the requirements of the legislation.

Refer to the Health Canada publication *Guidance Document for Preparing a Submission for Food Health Claims*, so you know how to request an approval for a food health claim.

Health Canada has prepared a Guidance Document for Preparing a Submission for Food Health Claims. This document explains the policies and governing statutes and regulations and will assist you in preparing a submission seeking approval from Health Canada for the use of new health claims on food products. See the Health Canada website at www.hc-sc.gc.ca

Additional Resources

All federal legislation can be found on the website for the federal Department of Justice at <http://laws.justice.gc.ca/eng>

Canadian Food Inspection Agency (CFIA) at www.inspection.gc.ca

Alberta North Office
(north of Innisfail/Bowden)
Tel: 780-395-6700

Alberta South Office
(south of Innisfail/Bowden)
Tel: 403-299-7680

CFIA has developed the Industry Labelling Tool, a food labelling reference. This tool replaces the Guide to Food Labelling and Advertising and provides consolidated, reorganized and expanded labeling information. The tool can be found on the CFIA website at <http://www.inspection.gc.ca/food/labelling/food-labelling-for-industry/eng/1383607266489/1383607344939>

Health Canada (www.hc-sc.gc.ca)

For more information on the use of health claims on foods, visit the Health Canada website at www.hc-sc.gc.ca

Guidance Document for Preparing a Submission for Food Health Claims can be found on the Health Canada website at www.hc-sc.gc.ca