



Public consultation on Canada Grain Act planned

—by Cathy Holtslander, NFU Director of Research and Policy

Agriculture and Agri-Food Canada, in collaboration with the Canadian Grain Commission (CGC), is preparing for a public review of the *Canada Grain Act* (CGA) to be held from April 1 to June 1, 2020. It is not clear how the COVID 19 pandemic will affect the process. At press time, the consultation document had not yet been published. According to information the NFU received from the CGC, the consultation will deal with broad areas of policy and vision, with details to be developed in 2020-21 based on stakeholder feedback. It will be important for NFU members to participate in this consultation process so that the farmer's voice is heard. We will provide further information by email, social media and the website when we have more information.

Initial indications are that the consultation will focus on the following topics and questions:

Binding determination of grade and dockage

Farmers can ask the CGC to settle disputes with grain companies over grade and dockage when they deliver to the elevator. Do we need improvements to this system? What implications are there if Falling Number and/or DON are added as grading factors?

Producer payment protection

Grain companies would like to get rid of the existing security system, which requires companies to post a bond large enough to cover payments owed to farmers in the event the company goes bankrupt. They are pushing to replace it with a farmer-funded insurance system.

Licensing of grain elevators and grain dealers

Do we have any concerns about the licensing process or requirements? Should container loading facilities be licenced?

Official inspection and weighing

The grain companies have lobbied for contracting out inspection to private companies, reducing the CGC's role to a paper-based audit of documents. This would gut the CGC's capacity to uphold Canada's quality standards.

In 2014, Bill C-48 attempted to amend the CGA. It died on the order paper when Parliament was dissolved for the federal election. It is likely that similar proposals are being discussed now. Some of the amendments we opposed then were sneakily inserted into Bill C-4, the CUSMA Implementation Act. For more information, see **Bill C-48, An Act to amend the Canada Grain Act – Key Points** (<https://www.nfu.ca/policy/bill-c-48-an-act-to-amend-the-canada-grain-act-key-points/>) and **Bill C-4 makes unnecessary and harmful amendments to Canada Grain Act** (<https://www.nfu.ca/policy/canada-grain-act-amended-by-stealth/>).

Overview Canada's grain export system

The CGA is the primary legislation governing Canada's grain sector. The CGC is the agency responsible for implementing the Act. The Act mandates the Commission to "in the interests of the grain producers, establish and maintain standards of quality for Canadian grain and regulate grain handling in Canada, to ensure a dependable commodity for domestic and export markets." (Section 13)

The CGC's responsibilities include recommending and establishing grain grades and standards for those grades and implementing a system of grading and inspection for Canadian grain to reflect adequately the quality of that grain and meet the need for efficient marketing in and outside Canada; and establishing and applying standards and procedures regulating the handling, transportation and storage of grain and the facilities used therefor.

The CGA also gives the CGC broad regulatory authority, including among other matters, the ability to make regulations governing handling and treatment of grain in elevators; respecting the receipt, inspection, handling and storage at elevators of foreign grain; requiring licensed elevators and grain dealers to submit to the Commission such

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information relating to the conduct and management of their affairs; respecting cancellation of inspection certificates; prescribing any matter that under the CGA is to be prescribed; and generally for carrying into effect the purposes and provisions of the CGA.

The CGC also provides binding determination when properly requested by a farmer in the event of a dispute over grades and/or dockage when grain is delivered to a licenced elevator. It has a role in regulating rail transportation of grain. It also provides final inspection of grain shipments destined for export from Canada's ports, and issues a "certificate final" to the exporting company that verifies the content and quality of the shipment.

The CGA and the *Seeds Act* intersect in the matter of grades and classes of grain. The *Seeds Act* ensures that most of Canada's commercial crops are sown with registered varieties of seed that have met various quality, performance and disease-resistance standards. The *Seeds Act* is an important part of Canada's quality control system, both for ensuring the value of our products and the protection of farmers against unscrupulous seed dealers. The CGA discourages delivery of unregistered varieties, and the CGC inspection process allows enforcement of correct designation of grain by grade and class.

Under the CGA, the Canadian Grain Commission has the authority to designate the class of grain for which new grain varieties are eligible. Canada has 18 different classes of wheat (7 Eastern and 11 Western), two classes

of flax (Western and Eastern) and eight classes of barley (4 Eastern and 4 Western). Varieties cannot be registered unless they have the end-use quality characteristics required for a specific class. The variety registration process requires multi-year field trial data that demonstrates its performance in Canadian conditions, and final evaluation by panels of plant scientists, farmers and industry experts.

The CGC, CGA, *Seeds Act*, and our variety registration system are the foundation of Canada's regulatory framework governing grain and seed. It was set up to protect farmers' interests by providing a counterbalance to the concentrated power of the grain and railway industries. These laws and institutions are under concerted attack by the corporate agribusiness sector, aiming to turn our grain regulatory system 180 degrees by granting grain companies powers that will allow them to financially abuse farmers, as was common over a century ago. It is imperative we do not give any ground in these consultations.

You might find it useful to read our 2012 brief, ***NFU Response to Proposed Amendments to the Canada Grain Act in regard to the Canadian Grain Commission*** (<https://www.nfu.ca/policy/nfu-response-to-proposed-amendments-to-the-canada-grain-act-in-regard-to-the-canadian-grain-commission/>) as you prepare for the upcoming consultations. Other briefs about the CGA and CGC are available on the NFU website – enter "Canadian Grain Commission" in the search tool on the home page to find them. ■

Seed lobby sets up pilot project to test drive system to force farm saved seed payments

—by Cathy Holtzlander, NFU Director of Research and Policy

Canadian farmers answered with a resounding NO! when Agriculture and Agri Food Canada (AAFC) and the Plant Breeders Rights (PBR) Office attempted to force farmers to pay royalties to seed breeders when they plant farm saved seed from varieties registered under the new UPOV '91 regime. Farmers have already paid the cost of developing the varieties they buy, and unequivocally reject paying yet again through annual royalties on farm saved seed.

As part of this attempt to charge farmers royalties for planting their own seed, the federal government held consultations in late 2018 and early 2019. They promoted

two methods of forcing these payments on farmers: End Point Royalties or Trailing Contracts. The government asked farmers to choose between the two. Either method involved passing new regulations to remove farmers' long-standing right to freely save seed from their crops to plant again. These new regulations would put limitations on the "farmers' privilege" clause in Canada's PBR Act, which currently prevents seed companies from forcing farmers to pay royalties when they plant farm-saved seed of the UPOV '91 varieties on their own holdings.

Those calling for a system of farm-saved seed royalties claim it will provide more money for plant breeding research. In fact it is a cash grab by the private seed

What is Seed Synergy?

"Seed Synergy" is a major project of the corporate seed sector that aims to influence Canada's seed laws and regulations. It is a combination of 6 industry organizations: Canadian Seed Growers Association (CSGA); Canadian Plant Technology Agency (CPTA); Canadian Seed Trade Association (CSTA); Canadian Seed Institute (CSI); Commercial Seed Analysts Association of Canada (CSAAC); and CropLife Canada. They are promoting an extreme change of Canada's seed regulatory system to maximize their own power and wealth by using measures available under the UPOV '91 Plant Breeders Rights regime.

companies and an excuse for the federal government to cut public plant breeding budgets. Farmers already pay for plant breeding via crop development commission levies (check-off dollars), through their federal tax dollars, and when they purchase certified seed subject to PBR or gene patent royalties. There is more than enough money in the system to continue using our superior public plant breeding system for variety development.

During last year's public consultations, the NFU's *Save Our Seed* campaign provided information about the UPOV '91 PBR regime, the implications of eliminating "farmers' privilege", the value of public plant breeding, and the facts about how plant breeding is currently funded. We raised awareness and mobilized farmers to the extent that the federal government decided not to proceed with its stated plan for regulatory change.

But now, the corporate Seed Synergy initiative and its supporters in AAFC and the PBR Office are trying to sneak through the back door. They plan to make access to certain new varieties subject to private contracts that require farmers who purchase the seed sign away their legal right to freely use farm saved seed.

On February 25, the Canadian Seed Trade Association (CSTA) and the Canadian Plant Technology Agency (CPTA) announced a private "trailing contract" system called the "Seed Variety Use Agreement (SVUA) Pilot Project." When purchasing specific varieties, farmers will have to sign an "evergreen contract", which binds them to report annually and pay the company for any harvested seed they save for planting ... in perpetuity!

The main purpose of the pilot project is for the CPTA to test-drive its electronic tracking, enforcement and collection system, which includes a database containing all the SVUA contracts, declarations, quantities of farm saved seed planted, compliance reports and other data on the participating farmers. The CPTA is a private investigation agency that collects evidence which seed

companies can then use to sue farmers they suspect of infringing on Plant Breeders Rights or seed patents that apply to genetically engineered crops. Farmers who sign SVUA contracts will be subject to compliance audits by the CPTA in 2021 and future years.

The CSTA plans to set up a small working group of seed companies, seed growers, and retailers to evaluate the pilot project. It claims that it will have broad and diverse representation yet so far, participation is limited to the Western Wheat Growers Association and Canadian Seed Growers Association.

All of the prairie wheat and barley crop development commissions – organizations farmers directly elect and who are responsible for administering the funds provided by farmers for seed research and other activities – oppose the project. The Western Grains Research Foundation (WGRF) has also expressed serious concerns.

The SVUA pilot project may lead to wider application of private trailing contracts to effectively over-ride the legal protections farmers have under the current system. If seed breeding companies and institutions view it as successful, they are likely to release all future varieties with SVUAs attached. They may then test methods of capturing previously released varieties under SVUAs as well, or perhaps accelerate deregistration to take older varieties off the market. Another outcome may be "failure" of the SVUA pilot project to attract farmers, with the "solution" being to make SVUAs compulsory through a regulation that restricts or eliminates the "farmers privilege" under the PBR Act. If SVUAs become "normal" it will be much easier to make them mandatory. AAFC supports the industry initiative, and could we be considering the pilot project as a concrete step towards regulating mandatory farm saved seed royalties on all UPOV' 91 varieties.

The NFU will continue to fight to protect farmers' right to seed and plant breeding in the public interest. The NFU strongly warns farmers to reject this attempt to persuade farmers into giving up even more of their right to farm saved seed.

What varieties are involved?

To date, the SVUA pilot project includes CS Daybreak and CS Accelerate wheat varieties (owned by the French company Limagrain and sold by Canterra) and a new glyphosate resistant soybean variety that is not yet registered in Canada (owned by North Dakota State University and distributed by Secan). The project might add additional varieties in 2020 and/or in future years. We have indications that some new Agriculture Canada midge-resistant wheat varieties are also being considered for the project.

Corona Virus reveals faults in the food system —and creates opportunity for change

—by Cathy Holtlander, NFU Director of Research and Policy

A microscopic pathogen has called a halt to “business as usual” around the world. The COVID-19 virus, a tiny package of RNA, had been circulating unknown until its forest ecosystem was breached and it began to reproduce in the respiratory tracts of humans. A virus cannot move by itself, so the trail of contagion across the globe traces lines of human contact created by social and economic relationships. These pathways, and the speed and impacts of the pandemic, are also mediated by human intervention – not only today’s efforts to slow and stop the infection rate, but also as a result of past decisions that have structured our society in certain ways.

In dealing with the pandemic, Canadian federal and provincial governments are showing leadership, providing billions in economic supports and timely information. Our public health system, education system, social programs and democratic institutions creates the social solidarity needed for effective public health measures. Yet, due to pre-existing power relationships, many people are experiencing very hard times regardless.

COVID 19 is putting our societal weaknesses into plain view. It is clear that our food system depends upon the least powerful and lowest paid: migrant farm and processing plant workers, long distance truck-drivers, grocery store workers and a shrinking population of debt-burdened Canadian farmers struggling with climate change impacts.

Our food system has been restructured to maximize efficiency at the expense of resilience and redundancy to facilitate corporate profit extraction at every stage. Food processing and distribution is highly concentrated and dependent on low-priced farm produce and low-paid workers. If one of the few large meat processing plants that pack most of Canada’s beef or pork shuts down, the impact will be greater than if we used many small abattoirs. Much of Canada’s fruit and vegetable processing capacity has relocated to low-wage countries due to trade agreements, also eliminating the farms that once supplied them.

We are now in a situation where agribusiness PR campaigns urge farmers to “feed the world” – by buying higher quantities of more expensive inputs – while we no

longer produce enough of the full range of foods to provide Canadians with a balanced diet! The exception is our Supply Management system which matches output to domestic requirements and covers farmers’ cost of production – though its future is threatened with each trade agreement, as negotiators use access to our dairy and poultry markets as bargaining chips.

Globalization has created long supply chains that allow transnational corporations to source ingredients almost anywhere and pay the lowest possible prices to farmers, process foods where labour is cheap, then sell it for the highest prices consumers will bear. To maximize profits and market share, these corporations constantly offload costs onto workers, farmers, the environment and future generations by lobbying for regulatory changes to increase corporate power. Austerity goes hand in hand with globalization, reducing taxes on corporations and under-funding our health care system and needed public services. Corporations also increase profits by replacing people with technology. As workers’ wages and farmers’ prices are depressed, both must increasingly rely on debt for survival. Public acceptance of these structural shifts is promoted by advertising, “think tanks” and political parties that present these changes as “modernization” – normal, natural and to be celebrated.

Recovery from the pandemic must not be a return to “normal”. Instead we need to take this opportunity to rebuild by making our food system more just and less precarious for all. It is crucial to continue advancing food sovereignty and agroecology. These are essential strategies to build a robust food system that does not engender nor propagate new pandemics, and which delivers health and decent livelihoods for all who produce our food, while enhancing ecological integrity worldwide.



Thanks to *How to Beat Corona Virus Capitalism* – webcast with Naomi Klein et al and *Covid 19 and the Circuits of Capital* by Rod Wallace et al, which provided information and inspiration used in this article.