

## Canada Grain Act Review

April 30, 2021

### Introduction

Keystone Agricultural Producers (KAP) welcomes this opportunity to provide feedback to Agriculture and Agri-Food Canada's review of the Canada Grain Act.

KAP is Manitoba's general farm policy organization, providing a unified voice for farmers on issues that affect agriculture. KAP represents and promotes the interests of 4,500 farmers and 20 commodity associations.

As the voice of Manitoba farmers, KAP's democratic and grassroots decision-making process is essential. KAP policy is developed by individual members and commodity groups representing all agricultural commodities and regions in Manitoba. The recommendations in this submission are guided by KAP policy and input from KAP's grains, oilseeds, and pulses policy committee.

### Recommendations

#### **The Role of the Canadian Grain Commission (CGC)**

KAP supports the CGC and its mission to ensure the integrity and marketability of Canadian grain. The recent ratification of trade agreements, coupled with the modernization of agronomic practices and evolving marketing strategies, reaffirms the important role of the CGC and its policies, programs and services in support of primary producers.

Section 13 of the Canada Grain Act establishes that the CGC's mandate is to, "in the interests of grain producers, establish and maintain standards of quality for Canadian grain and regulate grain handling in Canada." KAP supports this mandate because it underscores the core purpose of the CGC and recognizes the importance of producer oversight and feedback regarding CGC policies and programs.

**Recommendation 1:** KAP recommends that the CGC continue to operate in the best interests of producers and the Canadian grain industry and as an independent third party to establish grain grades and standards.

#### **Access to Binding Determination (Subject to Inspectors' Grade and Dockage)**

Section 61 of the Canada Grain Act establishes the responsibility of licensed primary elevators to provide a cash purchase ticket or elevator receipt to producers upon the delivery of grain. Section 61 also authorizes the CGC to establish procedures in the event there is a discrepancy

between a producer and elevator operator's grain assessment. Producers can initiate Subject to Inspector's Grade and Dockage at the time of delivery that requires elevators to retain and submit a 1 kg grain sample to the CGC for assessment.

The distance between elevators and farms has grown substantially since the Canada Grain Act was first implemented. Manitoba producers often employ custom haulers who do not have the authority to initiate a grade and dockage dispute with an elevator upon delivery. Producers from less populated areas are geographically limited when marketing their grain and are often fearful of initiating a dispute process that may jeopardize their relationship with an elevator operator.

**Recommendation 2:** KAP recommends that the Canada Grain Act be amended to require primary elevators to keep 1 kg samples of all grain deliveries until the time of cheque settlement, and to allow producers to initiate the Subject to Inspectors' Grade and Dockage process at any time from delivery to cheque settlement.

### **Sampling**

The Canada Grain Act mandates the installation of sampling equipment in elevators but the CGC does not currently exercise its authority to require this. Section 56 of the Canada Grain Act outlines that a licensed elevator shall install equipment and provide the appropriate facilities for efficient and accurate sampling procedures.

The most important task to determine grain quality is a representative sample. Accurate sample probing at elevators is critical to prevent grade and dockage discrepancies between truckloads and grain buyers. Elevator operators should ensure that their sampling practices are not disadvantageous to producers.

**Recommendation 3:** KAP recommends that the CGC increase sampling oversight and consider random elevator inspections to ensure sampling procedures are adhered to.

### **Producer Payment Protection (Safeguards for Grain Farmers)**

As part of its licensing system, the CGC administers a producer security program intended to protect producers if a grain buyer does not pay. KAP policy states that the authority of the CGC should extend to offering appropriate producer protection against losses, which includes creating a stable environment where producers are protected from financial losses outside of their control.

### ***Feed Mills***

Feed grain sales can be a significant portion of a producer's yearly sales. A gap in producer payment protection identified by the Government of Canada and industry groups is the lack of producer protection when grain is sold to feed mills. When a buyer defaults on their payment, this can impact a producer's cash flow and their ability to purchase new inputs, machinery and

land. Payment protection on sales would encourage producers to grow more feed grains, which can be a viable and profitable option.

**Recommendation 4:** KAP recommends that the CGC consider options to include feed mills in the Safeguards for Grain Farmers Program.

#### ***Alternative Producer Payment Protection Options***

Any review of potential producer payment security options requires an analysis of the potential costs to producers. It is also important to account for the challenges and opportunities different models may have on the Canadian grain handling system, primary producers and grain buyers.

A potential payment security programming must be accessible to all producers, provide adequate compensation and should not be overly burdensome for smaller grain buyers who pose less of a threat to grain sellers.

**Recommendation 5:** KAP recommends that the CGC and the Government of Canada initiate a thorough analysis of potential producer payment security options, including an insurance-based model and a producer compensation fund.

#### **Delivery Contracts**

The Fair Rail for Grain Farmers Act amended the Canada Grain Act, permitting the CGC to regulate grain contracts and arbitrate grain contract disputes. Variability amongst grain contracts remains an issue for producers as compensation requirements within contracts vary by grain company, and penalty amounts and mechanisms are not outlined in the Canada Grain Act. It is a producer's responsibility to negotiate acceptable contract delivery terms, but any negotiation process between a producer and an elevator poses a risk to a producer's relationship with a grain buyer if delivery terms cannot be accommodated.

**Recommendation 6:** KAP recommends that the CGC review the variability of grain contracts and consider options for standardized delivery contracts to protect the interests of producers.

#### **CGC Licensing**

The Canada Grain Act prescribes four license classes: primary elevator, terminal elevator, process elevator, and grain dealer. The CGC maintains an online list of licensed grain companies, which is a valuable tool for producers to reference when selling grain. Reliable resources are important for producers in understanding that they do not receive CGC payment protection if selling grain to unlicensed grain buyers.

Manitoba is expanding its value-added processing capacity and progressing with the provincial government's protein strategy. Producers must understand payment protection limitations that may be present when selling grain to new facilities. Section 42 of the Canada Grain Act outlines licensing classifications and Section 43 allows the CGC to develop license subclasses with the approval of the Governor in Council.

**Recommendation 7:** KAP recommends that the CGC continue to provide vital information online to producers about licensed grain buyers and consider providing clarity for producers regarding grain sales to new facilities like value-added processors.

**Recommendation 8:** KAP recommends that the CGC identify facilities that may be considered a license subclass and work with industry and affected subclass facilities to determine fair licensing requirements that would accommodate operational needs and provide payment protection for producers.

### **Official Inspection and Weighing**

To maintain Canada's international reputation for high-quality grain, the CGC must ensure all grain leaving Canada meets buyer specifications. KAP supports the role of the CGC as the entity responsible for regulating Canadian grain handling. Producers are concerned that changes to the CGC's role in outward inspection would limit the quality assurance and verification standards international buyers expect from Canadian products.

In the 2019-2020 crop year, the CGC issued 20,150 documents, of which 2,465 were certificate finals, 8,146 letters of analysis and 9,499 statements of assurance. The volume of requests for CGC certification demonstrates the significant value the CGC provides in assuring international buyers that Canadian grain is of the highest quality.

Exemptions within the Canada Grain Regulations accommodate agricultural production sectors that ship grain to the United States and use containerized shipping to move products. These regulated exemptions are considered necessary by the affected sectors to support exports by different commodities. Recognizing the diversity of crops exported from Manitoba, exemptions or accommodations for unique sector requirements should be provided within any future amendments to legislation and policy.

**Recommendation 9:** KAP recommends that the CGC continue to provide outward inspection and that the Government of Canada maintain exemptions within the Canada Grain Act and Canada Grain Regulations to enable flexibility, in particular for bulk commodities, to support various commodities moving to markets.

### **Other Issues**

#### **Falling Number**

High rates of precipitation during the 2019 harvest created many grain quality challenges for producers. Although falling number is not an official grading factor, producers have noticed variability between the falling number test results they receive from an elevator (through lab testing) and their own analysis. Many producers have reported incidents where they received a different price for their grain based on these test results. Manitoba producers remain concerned about testing accuracy, reliability and repeatability.

**Recommendation 10:** KAP recommends that the CGC investigate methods to standardize and increase testing precision and speed in the determination of a falling number.

### **Moisture Testing**

Determining the moisture content of grain is important to the ongoing quality, safety and storage of grain. The CGC and many elevators use a Unified Grain Moisture Algorithm (UGMA) moisture tester, whereas Manitoba producers typically use a 919, an older moisture tester. UGMA testers operate at a different wavelength than a 919 tester and can provide different results.

Producers have reported incidents where their on-farm moisture test results significantly differed from the test results they received at an elevator. The CGC offers moisture determination guidelines and calibration protocols, but they are not responsible for moisture meter certification. While some factors that influence moisture testing, such as outside temperature, cannot be controlled, consistent results are more likely with standardized equipment.

**Recommendation 11:** KAP recommends that the CGC investigate options to rectify the differences between UGMA and 919 moisture testers to ensure consistent test results.

**Recommendation 12:** KAP recommends that the CGC mandate, at a minimum, yearly maintenance and calibration of grain company moisture testers by certified technicians.

### **Protein Testing**

Protein testing can demonstrate key indicators of how wheat will perform for the end-user, so accurate test results are imperative. Producers are concerned that test results vary because protein testers are not standardized or calibrated.

**Recommendation 13:** KAP recommends that the CGC implement a system of standardization and calibration for protein testers.

### **Scale Reading**

Section 64 of the Canada Grain Act requires primary elevators to allow producers full access to verify grain weights during the weighing process. Some elevators in Manitoba do not have digital scale readouts and COVID-19 restrictions have limited producers' access to elevator offices. Many producers in Manitoba reported that they could not to verify their grain weights throughout 2020.

**Recommendation 14:** KAP recommends that the CGC work with elevator operators and grain buyers to ensure all platform scales have clear displays to adhere to the transparency required by the Canada Grain Act.

### **Export Data**

Industry and governments rely on data to make evidence-based policy decisions and recommendations. The Government of Canada does not readily distribute and publicize export sales for agricultural commodities produced and exported from Canada. The CGC currently provides some export statistical data collection and publications, although it could expand those reporting duties to include more detailed analysis.

**Recommendation 15:** KAP recommends that the Government of Canada work with industry and the CGC to report weekly on import and export sales for all agricultural commodities.

### **Variety Registration**

The CGC uses variety registration data from registration trials to confirm quality parameters for grain classification. Producers are concerned that the process of variety registration may change or require less performance data for registration, because of the Seed Regulatory Modernization process initiated by the Canadian Food Inspection Agency. The outcome of this change would require the CGC to implement additional grain quality assurance measures to ensure the quality standards of Canadian grain.

**Recommendation 16:** KAP recommends that the current system of variety registration remain as a stable, third party, peer reviewed, merit based, resource for CGC grain classification.

### **Education**

Many producers are not aware of the programs and services offered by the CGC, or their rights when selling grain established through the Canada Grain Act. As the Government of Canada moves forward with modernizing the Canada Grain Act and adapting to the CGC's role in the Canadian grain handling system, producers must understand how potential changes to the Canada Grain Act and CGC services may impact their operations.

**Recommendation 17:** KAP recommends that the CGC inform and educate producers about their rights within the Canada Grain Act and services offered by the CGC.

## **Summary of Recommendations**

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