
Canadian Grain Act & CGC Review

**SUBMITTED BY:
ALBERTA FEDERATION OF AGRICULTURE**

The Alberta Federation of Agriculture (AFA) is a strong supporter of the roles that the Canadian Grain Commission (CGC) performs on behalf of producers and Canada's export trade. We fully support the CGC's current mandate: "The Canadian Grain Commission works in the interests of grain producers. Guided by the Canada Grain Act, the CGC strives to establish and maintain standards of quality for Canadian grain, regulate grain handling in Canada and ensure a dependable commodity for domestic and export markets."

That being said, we welcome the review of the Canada Grain Act and Regulations and the opportunity to comment on various aspects of CGC service delivery.

Inspection, weighing & certification

I. Duplication of services

We understand that there is sometimes a duplication of services between Canadian Grain Commission inspectors and private sector services, with some importing countries requesting private inspection services. Because a CGC Certificate Final is required by law for export, this results in an unnecessary duplication of services.

Recommendation

To protect producers, AFA urges CGC to do what it can to ensure that any additional inspection costs are borne by the requesting customer and are not passed along to producers.

II. Inspection and Certification role

In the CGC technical brief, three approaches to current inspection and certification requirements are outlined:

- Continuation of current services with operational efficiencies
- Withdrawal from direct service provision but provide oversight of private sector services
- Withdrawal from direct service provision and oversight, becoming a regulatory agency only

AFA feels that the Grain Commission needs to continue its current service provider role. The fieldwork performed by CGC inspectors is vital in informing and directing CGC's other activities.

Recommendation

CGC should continue as the official service provider while modernizing its operations. Should the training and certification recommendation that follows become operational, a training and oversight function could be envisioned, in addition to the inspection services currently provided.

III. Grain Inspection Training and Certification

Several AFA members have expressed dissatisfaction with wildly varying grain quality assessments provided by different grain handling facilities of the same sample. AFA feels that the level of assessment training in many locations is, at best, insufficient. It is not in the interest of producers to be required to approach multiple facilities to obtain a valid sample assessment.,

One of our members has contacted the Alberta Apprentice and Industry Training Board, several colleges and elevator staff and has received significant support for the concept. Standardized training would have the added benefit of enabling transferability of skills assessor among grain handling facilities.

Recommendation

AFA urges the CGC to support, and potentially provide, compulsory training and oversight for all grain assessors which may take the form of the development of an accredited trade.

IV. Exempted shipments

Currently grain that is shipped directly from inland terminals to USA, Mexico or St. Lawrence (terminals or shipping points) or through containers is exempted from outward inspection. CPR's merger with Kansas City Southern will result in more grain movement being exempted.

AFA asks that the Grain Commission investigate the pros and cons of extending CGC certification to non-ship grain movement

Subject to Inspector's Grade & Dockage (Binding Determination)

I. Grain Assessment Procedures

AFA has noted that sampling and assessment techniques vary widely among buyers, but that particularly during the COVID-19 pandemic, there is a distinct lack of transparency of the weighing, sampling and assessment activities.

AFA members have highlighted:

- Inadequate sampling procedures and equipment
- Insufficient retention of samples
- Improper recording of quality characteristics
- Limited window in which to request re-inspection

Recommendation

AFA urges the Grain Commission to enact its authority to ensure that the procedures identified in the Sampling Systems Handbook are followed and applied uniformly across Canada.

We recognize that some procedures may be difficult or unduly expensive for compliance by small or start-up organizations and thus recommend that the prescriptive protocols currently in existence be reviewed for compliance for smaller grain handlers, while maintaining the integrity of the assessment system.

II. Facilities

Section 56 (1) on the Canada Grain Act gives the CGC the authority to ensure that facilities are sufficient “to ensure ... the efficient and accurate weighing, sampling, inspection, grading, drying, cleaning and accommodation of all grain ... ”

Our members have noted that sampling systems are often antiquated, insufficiently automated and inadequately controlled. The CGC has the authority to change that. We recognize that requiring upgraded facilities may negatively impact smaller grain handling facilities. Perhaps those facilities identified (by lower grain volumes or an amended licensing system) as finding compliance difficult/overly expensive may be given an extended time period for modernization, or less expensive alternatives.

Recommendation

We recommend that CGC enacts its authority to ensure that physical sampling, weighing and assessment facilities, including software, are modernized to the benefit of all producers.

However, we urge CGC to establish protocols and apply its authority in such a way that smaller handling facilities are not unduly negatively affected and start-up operations not discouraged by overly prescriptive regulation.

III. Transparency

Producers feel disadvantaged when there is no immediate evidence of load weight upon delivery and when they are discouraged from entering the delivery offices.

Recommendation

Delivery sites should be required to provide some visual evidence of weights (display, print-out). Producers should be encouraged to safely observe the assessment procedures.

IV. Window to request binding determination

The current window to request CGC assessment is on delivery only. It is now common that the producer is not the individual delivering the grain and may not be aware of a controversial grade until too late to request binding determination.

Recommendation

The window for binding determination requests should be extended to 10-14 days following delivery. Samples should be retained until the load is cleared and exported. In order to facilitate rapid payment to producers, producers could waive the right to further assessment on receiving the delivery grade.

The binding determination service, and the period in which it can be made should be widely communicated to producers and displayed at delivery points.

V. Access to binding determination

Currently binding determination is available at licensed primary elevators only.

Recommendation

The access to binding determination should be extended to all CGC licensees.

VI. Extension of grain quality characteristics

There is currently much debate about whether the falling number should be considered an official grading factor. AFA feels that until the technology exists such that falling number can be determined accurately and quickly at the place of delivery, it should not be included as an official grading factor.

Producer Payment Security

AFA recognizes that producer payment security is a vital component of the services supplied by the Canadian Grain Commission. As a prairie general farm organization, we worked with the other prairie farm organizations to promote the pooled compensation fund included in Bill C-48.

We feel that the current model is administratively heavy for both CGC and licensees and expensive - particularly for smaller grain handling organizations that do not have the security flexibility of larger terminals. The current system is subject to misrepresentation. Private licensed companies may not open their financial information until year-end, at which point they may be well into a difficult financial situation.

Audited financial statements are expensive. CGC needs to use discretion for smaller organizations that provide good quality reviewed financial statements. The 90-day post-delivery maximum for compensation in case of failure affects producers' ability to manage their cash flow and revenue streams.

Recommendation

CGC continue to explore producer payment security options that, while providing full security for producers also minimize administration requirements and security costs and are not unduly burdensome for smaller organizations and start-ups. Required financial disclosure should be reviewed, as should the 90-day post delivery regulation.

Licensing Framework

AFA acknowledges that the licensing framework for grain handling organizations is not current, is inflexible and does not necessarily accommodate modern business arrangements. Some licensees perform multiple functions; some primary elevators also function as terminal elevators for example. Container loading operations and transloaders escape licensing. Unlicensed grain handling companies are not subject to significant penalty.

Recommendation

CGC examine and revise its current licensing system to accommodate current and future grain handling operating systems and incorporate more flexibility in the licensing system. CGC could consider incremental/graduated classes of licenses based primarily on volume of grain movement with differing responsibilities and requirements attached to each class. CGC authority should be extended to unlicensed facilities that are in contravention of the Canada Grain Act.

Scientific Research

AFA is a strong supporter of the research operations of the Canadian Grain Commission. We feel that this program is essentially a public good and as such, should be funded by public funds. We note that CFIA has many inspection functions which are almost entirely funded by public money.

Recommendation

AFA would like to see strong legislative support for the crucial role of CGC's research. The research laboratory should be recognized as a public good and funded entirely by the Government of Canada. In view of the expansion of technology and of factors of concern to grain production, funding for the research laboratory should be increased.

Funding

AFA recognizes that CGC's funding model is outdated and it is funded primarily by outward inspection fees which flow through to only some grain producers, while all grain producers benefit from the activities of the organization.

Recommendation

While not able to suggest a new funding model, AFA encourages CGC to explore options to the current funding model so that all grain producers participate in funding CGC activities. We also believe that the federal government should fund a larger portion of CGC activities outside of the research laboratory, as outward inspection certainly includes a public good component.

Producer Cars

Recommendation

Producers should retain the ability to access producer cars to sell direct to customers.

Contract Protection & Fairness

An issue that we hear consistently from producers in reference to grain contracts is a sense of frustration and helplessness by being forced to sign contracts with grain companies that are extremely one-sided. These contracts heavily favour grain companies and while producers can contact the CGC to arbitrate the matter or refer the case to an arbitrator, AFA wonders if there is a way to address this issue further.

Recommendation

AFA urges the CGC to further address transparency and fairness in grain contracts by introducing a standardized grain contract to ensure that the penalties a producer or grain company may experience in not fulfilling their end of a contract are more balanced, meeting the needs of both parties.

Export Sales Reporting Program

Today, it's more important than ever that producers have access to as much market information and data as possible. The transparency afforded by a program like the Export Sales Reporting Program that is available to US producers allows producers to make informed marketing decisions backed by critical data. The creation of this type of mandatory reporting is something that AFA has long been supportive of and advocating for.

Recommendation

AFA recommends the establishment of an Export Sales Reporting Program that would monitor and report on Canadian agricultural export sales of grain on a daily and weekly basis.

Governance

While there are numerous opinions about CGC governance, AFA recognizes that any recommendations would need careful consideration and analysis through a consultation process of its own.

Recommendation

AFA recommends that any consideration to a change in governance must have the overwhelming support of primary producers while being scrutinized with a full consultation process of its own. AFA also urges the CGC to review the role of the Assistant Commissioners to determine if the position should be resurrected in some form.