



**PO Box 20106**  
**Regina, SK S4N 4J7**  
**[smathieson@poga.ca](mailto:smathieson@poga.ca)**  
**(306)530-8545**

February 22, 2022

Canadian Grain Commission  
1000 - 303 Main St  
Winnipeg, MB  
R3C 3G7

To Chief Commissioner Doug Chorney, Assistant Chief Commissioner Patty Rosher, and Commissioner Lonny McKague;

On behalf of the approximately 10,000 levy-paying producers of the Prairie Oat Growers Association (which represents Saskatchewan Oat Development Commission, the Manitoba Oat Growers Association and the Alberta Oat Growers Commission,) we are writing to voice our concerns regarding Bill C-4 as part of the implementation of the Canada United States Mexico Agreement (CUSMA).

There was a severe lack of consultation prior to passing the supporting legislation and regulations.

The very brief "consultation" on declarations in May 2020 was done after the legislation was passed and during one of the busiest times of the years for farmers: seeding. At most, our board perceives this as an opportunity to comment but with no reasonable time to have changes made, prior to the implementation of CUSMA on July 1, 2020 or on the implementation of the new declaration on August 1, 2020.

Given that the CUSMA agreement was implemented in a historically short timeframe, there is a need for additional consultation and outreach to farmers. At the current time, we are not aware of any significant action taken by either the CGC, any grain purchasing company, or any association to engage with Western Canadian farmers on the difference between the statutory declaration and private industry declarations. Specifically, there was no consultation on the combined declaration form that Western Canadian farmers have been presented with for over a year by many grain purchasing companies.

In comparison, we are aware that the CGC has engaged in extensive discussions with Eastern Canadian farmers as to the implementation of statutory grain declarations. We understand that several Eastern Canadian farmers' concerns mirror our own and that through this consultation, it was determined that corn and soybeans, Eastern Canada's two largest crops, would not be impacted by this change. Eastern Canada has less than 15% of the farmland in Canada, and their largest-acre crops have no change

associated with this mandatory declaration. Obviously, the impact these changes have are significantly less in Eastern Canada than in Western Canada.

On behalf of our producers, POGA requests the following:

1. As Western farmers were not given a similar opportunity for such extensive discussion prior to implementation, we are requesting that the CGC launch a consultation with farmers in Western Canada regarding the CGC declarations.
2. That any and all statutory variety declaration requirements on farmers must be provided as a separate document, which must receive a separate signature.
3. That the Canada Grain Act be adjusted to ensure that the statutory variety declarations only apply to farmers' wheat deliveries.
4. That the CGC provide farmers the right to retain an agreed-upon grain sample from each delivery.

POGA understands that AAFC and the CGC may have viewed the implementation of a statutory declaration requirement on both Canadian and US wheat producers, selling into the Canadian grain-handling system, as the best means of practically meeting the requirements of the CUSMA agreement while protecting Canada's wheat classification system. However, we are concerned that the implementation of Bill C-4 has created an unnecessary domestic administrative and legal burden by extending Canada's specific agreed-upon obligations for wheat to all crops by substituting the term "grain" in Canadian domestic legislation, when the word "wheat" would have sufficed.

While CUSMA article 3.A.4 is clear that Canada has agreed that "each party shall accord to originating **wheat** imported from the territory of the other party treatment no less favourable than that it accords to like **wheat** of domestic origin..." the implementation of Bill C-4 went far beyond the scope of the agreement terms by creating section 83.1 of the Canada Grain Act so that "Every licensee and every person who sells **grain** to a licensee shall, in accordance with the regulations, make and provide a declaration respecting the **grain** to a prescribed person."

We further are concerned that, by allowing for the merger of the CGC declaration with private industry declarations, the following ensuing and potentially negative effects may prevail:

- By implementing its own declaration, the Government of Canada can be seen as formally endorsing and entrenching the practice of having farmers retain risk on their grain beyond the point of transfer of ownership.
- By allowing for a combined declaration of government and private requirements, agreed to with a single signature by the farmer, farmers may also assume that federal government is requiring the entire declaration be signed in order to sell the grain. However, only part of the declaration is required by federal law, and the other part is a separate negotiated agreement between the producer and the grain company. This may limit the farmers' perceived ability to negotiate and dispute the terms of private grain contracts. This issue can be intensified by lack of alternatives for grain delivery.
- While there have been contractual declarations in place in western Canada for many years, these were not federally mandated documents subject to criminal penalties. This increases the risk to producers if they are accused of knowingly misrepresenting their grain. Since the new declaration combines both government and private industry terms, farmers may be confused as to the legal relationship and implications.

The use of grain declarations in contracts is a long-term source of concern for farmers, because a core purpose of private industry grain declarations is seen as ensuring that farmers retain liability for their grain beyond the transfer of ownership. Farmers express concerns that the private industry grain declarations are a means to expose farmers to responsibility from issues that occur *after* the grain has left the farmer's control. Now both the private industry and statutory grain declarations may expose farmers to liability from false positives from testing, errors in handling, and administrative errors; leaving farmers with no avenue for recourse.

In their submission to the Canada Grain Act consultation, the Alberta Wheat and Barley Commissions stated that an imposition of additional risk from the government must also come with additional rights to mitigate this risk. A grain sample taken at the time of delivery could be a standard for dealing with potential grading disputes. Providing a farmer with an agreed-upon sample of each delivery, which is labelled properly and otherwise made tamper-proof, would provide the farmer assurance there is a means for resolving a dispute if ever accused of being out of compliance with a signed agreement, whether it is the CGC declaration or a grain company declaration.

The board understands that many other organizations voiced their concerns over this in October of 2021. Unfortunately, POGA and the oat commissions were not aware of this legislative change until mid-November 2021, and therefore were not able to provide feedback earlier.

POGA intends to ensure our producers are aware of this declaration change, as well as the concerns outlined in this letter, by publishing an article in the upcoming POGA newsletter (the Oat Scoop).

POGA feels strongly that most producers are not aware that this change to the declaration was made and that much more information, consultation, and transparency is needed by the CGC.

We look forward to your reply in response to our concerns and our outlined requests.

Sincerely,



Jenneth Johanson, President  
The Prairie Oat Growers Association  
E-mail: [jjohanson@mts.net](mailto:jjohanson@mts.net)

Cc:

Hon. Marie-Claude Bibeau, Minister of Agriculture  
Hon. Nate Horner, Alberta Minister of Agriculture and Forestry  
Hon. David Marit, Saskatchewan Minister of Agriculture  
Hon. Derek Johnson, Manitoba Minister of Agriculture