



Canadian Grain
Commission

Commission canadienne
des grains



Canadian Grain Commission

Licensing feed mills – Discussion paper

February 9, 2015

Ce document est aussi disponible en français.



Canada

About the Canadian Grain Commission

The Canadian Grain Commission is a federal agency. We administer and enforce the *Canada Grain Act* and the *Canada Grain Regulations*.

Under the Act and its Regulations, we establish and maintain Canada's grain quality standards. We also regulate the grain industry to protect producers' rights and to ensure the integrity of grain transactions.

Because of our programs, shipments of Canadian grain are of a consistent quality, safety and quantity and they are able to meet the specifications of customers.

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1. Background

The Canadian Grain Commission is considering licensing feed mills to enhance its producer payment protection program. Feed mills are not immune to market volatility, and some have experienced financial difficulties over the years, resulting in non-payment for grain deliveries. Recent bankruptcies of hog operations and feed mills in Western Canada left grain producers who were owed monies with little recourse. Extending Canadian Grain Commission licensing to feed mills that purchase grain from grain producers will reduce the risk of non-payment for grain producers in future transactions. Licensing feed mills is consistent with the Canadian Grain Commission's role in producer protection and in maintaining the integrity of grain transactions.

The Canadian Grain Commission is seeking input from feed mills, grain producers, current licensees, and other industry stakeholders on a proposal to licence feed mills and to assist in the development of licensing requirements for feed mills. These requirements would ensure that grain producers are covered by the Canadian Grain Commission's producer payment security program in the event of payment failure.

2. Purpose of discussion paper

The purpose of this document is to:

- Inform you, the stakeholder, that we are considering licensing feed mills;
- Provide the rationale for licensing feed mills and relevant information to those concerned;
- Describe how you can participate in the stakeholder engagement process;
- Provide you with the opportunity to comment on the licensing of feed mills and our approach in determining which facilities may be subject to licensing;
- Explain how to submit input, how it may be used and what happens after the discussion is concluded.

3. Issue

The Canadian Grain Commission has historically exempted feed mills from licensing. As a result, grain producers who sell grain to feed mills are not covered under Canadian Grain Commission's producer payment protection program.

Some producer groups have expressed concern about the exemption of feed mills from the Canadian Grain Commission's producer payment protection program in light of recent failures. The Canadian Grain Commission has received calls to extend producer protection to the industry.

Licensing feed mills would allow the Canadian Grain Commission to provide payment protection to grain producers who sell grain to feed mills. It would mitigate the risk of non-payment, allowing grain producers to make a claim against security for grain covered under the *Canada Grain Act* in the event of failure or refusal to pay for grain that they delivered. In this regard, licensing feed mills is consistent with the Canadian Grain Commission's role in producer protection and in maintaining the integrity of grain transactions.

4. Proposal

4.1 Approach

The *Canada Grain Act* provides the Canadian Grain Commission with the authority to licence grain elevators west of Thunder Bay, Ontario, and elevators along the Great Lakes and the St. Lawrence Seaway.

In addition, the *Canada Grain Regulations* identifies types of operations that are exempt from requirements and programs under the *Act*. These include process elevators not purchasing grain from farmers, operations that handle or store grain as part of a seed cleaning operation, and elevators that only act on behalf of licensees.

It is proposed that the Canadian Grain Commission expand its producer protection mandate to include deliveries to feed mills in Western Canada, by licensing these operations and applying the security requirement provisions to feed mills as a condition of their licence.

It is proposed that all feed mills having purchased grain¹ from a grain producer in Western Canada over the last year for use in the production of feed would be subject to a review for licensing. A feed mill may be defined as an operation where a process or a combination of processes is used to produce or manufacture feed for livestock or poultry consumption. The intent is to assess the feed mill industry in western Canada. Information collected will be considered when determining a threshold for commercial feed mills to be licensed.

4.2 Licensing feed operations as process elevators

Feed mills are currently classified as process elevators², but are exempted from licensing in the *Canada Grain Regulations*. Should the Canadian Grain Commission licence feed mills, they would be required to obtain a licence and could be subject to some requirements for process elevators set out in the [Canada Grain Regulations](#).

¹ As defined in 5.(1) of the *Canada Grain Regulations*, barley, beans, buckwheat, canola, chick peas, corn, fababeans, flaxseed, lentils, mixed grain, mustard seed, oats, peas, rapeseed, rye, safflower seed, soybeans, sunflower seed, triticale and wheat.

² As defined in the *Canada Grain Act* a "process elevator" means an elevator the principal use of which is the receiving and storing of grain for direct manufacture or processing into other products.

Costs specific to licensing of feed mills have yet to be determined. Once administrative cost estimates have been determined, the Canadian Grain Commission would ensure that the licensing fees charged to feed mills (either that of a process elevator, or specific to feed mills) are in line with the Canadian Grain Commission's cost recovery model.

Security requirements may be determined upon the review of monthly liabilities of a feed mill and may be tendered in the form of a bond, irrevocable standby letter of credit or guarantee, cash deposit or payables insurance.

A detailed description of the Canadian Grain Commission's licensing requirements for process elevators, which could be applied to feed mills, is included in Annex 1. Should the Commission move forward with licensing feed mills, these requirements and / or other factors may be applicable.

4.3 Potential options for licensing requirements

The Canadian Grain Commission is considering licensing feed mills in a way that captures those most at risk of adversely impacting grain producers. This could be done either by establishing licensing requirements, or identifying exceptions to allow the Canadian Grain Commission to focus its licensing efforts.

The concept of licensing requirements and exemptions could provide an objective and quantifiable way of determining which types of operations are most at risk. Licensing requirements or exemptions might be determined on the basis of the following factors:

- Type of operation: on-farm, commercial
- Type and volume of grain purchased from grain producers in a given month
- Volume of feed produced in a given period
- Feed mill operations using transactional risk insurance on all sales

5. Providing input

5.1 Topics for input

We value your input. We want to know:

- Your views about the proposed licensing of feed mills as outlined in this document
- Your views on producer payment protection as it relates to feed mills
- How these proposed changes may impact your operation
- Any additional information that you feel is relevant to this proposal.

In providing your comments, please consider these questions:

- What licensing requirements should be applicable to feed mills?
- How would the proposal to licence feed mills affect the interests of the organization you represent?
- Is providing producer protection beneficial to feed mills?
- Is there an alternative approach that we have not considered that you would like to propose?
- Is there a risk associated with delivery of grain and payment? Is transactional insurance against this risk commonly used?

Feed mills are further invited to provide the following information:

- Name of feed mill, address and contact information
- Do you make feed for: sale, custom blend, own farm
- Main market: on-farm, chicken, hogs, beef/dairy, other livestock, premixes, aquaculture, feed lots, hay/pasture/timothy, other
- What types of grains are purchased
- Average tonnage of grain purchased on a monthly basis
- Average feed mill sales in a given month
- Average yearly production of feed.

5.2 How to submit your input

Input may be submitted electronically or via mail. Responses must be received by midnight on April 9, 2015. Please note that your input may be provided in English or French.

The following information is strongly recommended when submitting your input:

- Your full name
- Your phone number
- Your complete mailing address or your email address

You may submit your input electronically by email to: discussions@grainscanada.gc.ca

Alternatively, you may submit your input by mail, to the following address. Please include a return address.

Consultations

Canadian Grain Commission
600-303 Main Street
Winnipeg, MB R3C 3G8
Telephone: 1-800-853-6705
Fax: 204-983-2751

This document is also available on our website at www.grainscanada.gc.ca. If you have any questions, please contact us.

Thank you in advance for your contribution.

5.3 What happens when your input is received

The Canadian Grain Commission will study it while considering:

- Input received by other stakeholders on the same subject
- The legal or policy implications of your proposals, if applicable
- The cost of your proposals, as well as the source of funding, if applicable, and
- Consistency with broader Government of Canada policies and priorities

You will receive acknowledgement of your written submission.

5.4 Next steps

The feedback received from stakeholders will be used to inform the Canadian Grain Commission's decision making, which could include further consultation. Should we decide to proceed with licensing feed mills, a regulatory amendment would be required to remove the feed mills licensing exemption from the *Canada Grain Regulations*.

When submitting written input for the *Gazette* process, the following information is suggested:

- The reason for the input, as well as how it relates to feed mills and our licensing proposal
- How the proposal affects your interests, or the interests of the group you represent
- Any additional information that is relevant

Annex 1: Licensing requirements for process elevators

1. Canadian Grain Commission licensing

The Canadian Grain Commission administers four licence classes for the purchase, handling, processing and/or storage of grain. They include grain dealers, as well as primary, process and terminal elevators.

2. Applying for a licence

Potential licensees are required to complete a Mode of Operations questionnaire, which helps the Canadian Grain Commission determine licensing eligibility. Once it is determined that a facility must be licensed, it must submit an application and provide the following documents:

- Tendered security at an amount determined by the Canadian Grain Commission (in the form of a bond, irrevocable standby letter of credit or guarantee, cash deposit or payables insurance);
- Articles of incorporation;
- Year-end financial statements;
- Licensing fees;
- Sample of grain receipts and cash purchase tickets used;
- Elevator scale verification or more specifically a copy of the *Device Inspection Certificate(s)* issued by Measurement Canada for the elevator's shipping/receiving weigh scales.

3. Licensing fees

The Canadian Grain Commission issues short-term and full-term licences to its licensees. Short-term licences are issued for a full month or partial month, and are typically issued in the interim, while the licence application or renewal is processed. Once approved by the Canadian Grain Commission, a full-term licence is issued.

A full-term licence is issued for a one-year term, or, if a licence is issued following the expiry of one or more short-term licences, for the remainder of the year that began with the issuance of the first short-term licence.

For 2014-2015, the fee for a full term licence is \$280.00/month, and \$358.00/month for a short-term fee. The monthly licensing fees are posted on our website should licensees require further information on the topic.

4. Compliance

Process elevator licensees are required to comply with the following directives as well:

- Post the Canadian Grain Commission licence in a conspicuous location in the elevator building;
- Install and maintain equipment and facilities to ensure the efficient and accurate weighing, sampling, inspection, grading, drying and cleaning and accommodation of all grain received or discharged;
- Store all grain received in an elevator building described in the licence application. An elevator can also store grain on the ground if a written request is submitted to the Canadian Grain Commission, advising the kind of grain to be stored on the ground and the date grain to be stored on the ground is to be received. Upon delivery, an elevator receipt, grain receipt or cash purchase ticket must be issued, and the elevator has the same responsibility for the grain as it has for grain stored in the elevator building.
- Keep elevator buildings and associated equipment in good repair;
- Keep sampling equipment and surrounding areas clean;
- Provide immediate written notification to the Canadian Grain Commission of the following:
 - Functional alterations to the elevator or to grain flows, sampling, control or any other equipment (within 15 days of plans becoming available);
 - Damage or destruction of any elevator building described in the application;
 - Damage, destruction or removal of any equipment required by the Canadian Grain Commission;
 - Damage or destruction of grain stored in any elevator building described in the application.
- Licensees must notify the Canadian Grain Commission before constructing a new elevator or renovating an existing elevator, or if there is a change in the total licensed capacity of an elevator during a licensing year. Total licensed capacity includes principal house, annex, other house, such as bins or twinned elevators, and any condominium storage not already included in the licensed capacity.

5. Reporting requirements for licensees

Process elevator licensees must adhere to certain reporting requirements to maintain good standing.

5.1 Monthly report of licensee's liabilities to producers

A process elevator licensee must report their outstanding liabilities to producers for grain (as of the last day of the reporting month) to the Canadian Grain Commission on a monthly basis. Reports are due on the 15th of the month following the reporting month

The report informs the Canadian Grain Commission of the total value of all monies owed by a licensee for grain received from, or purchased from, producers as of the last day of the month.

5.2 Grain handling statistics

A process elevator must also report their grain stocks and handlings each week, beginning the first week the facility is licensed. This is done through the Canadian Grain Commission's secure online reporting service.

5.3 Tariff reporting

Lastly, before the beginning of each new crop year, a process elevator operator must provide a schedule of tariffs to be charged at their facility effective the new crop year, or provide a letter indicating that there are no changes or no new tariffs. Additionally, licensees must report all rate increases and additions to tariffs during the crop year.