

Canada Grain Act Review

The Western Canadian Wheat Growers Association (WCWGA) welcomes and fully supports this consultation to modernize the Canada Grain Act. WCWGA appreciates the opportunity to provide input both directly and through our involvement with other farm organizations. Optional outward weighing and inspection (OW&I), using third parties accredited by the CGC would be the cornerstone of a modernized way of accomplishing a retained mandate. Funding models to sustain the evolving organization and assure Canadian grain quality and safety in a shifting landscape are discussed.

WCWGA is an agriculture policy advocacy group of volunteer “opt-in” farmers. Celebrating 51 years of active agriculture advocacy and policy development, all of our members choose to voluntarily join the WCWGA and support our work with a membership fee that comes out of their own pocket.

Although “Wheat” is in our name, and was a significant foundational component of our organization, the WCWGA members represent all major grains, which is relevant as the Grain Act covers a variety of commodities.

WCWGA has been an active member of the Grain Growers of Canada working group on modernization and supports the GGC’s recommendations and builds on them particularly in the area of grading and classification.

Recommendations:

1) Outward weighing and inspection:

- a) WCWGA supports third party inspection firms to perform **all** outward weighing, sampling and inspection services. Such independent 3rd parties would be accredited by the CGC. Limiting CGC to being a regulator would eliminate the significant current duplication of inspections. Experience indicates service levels would also be improved. Certificate finals could be incorporated into the accreditation process.

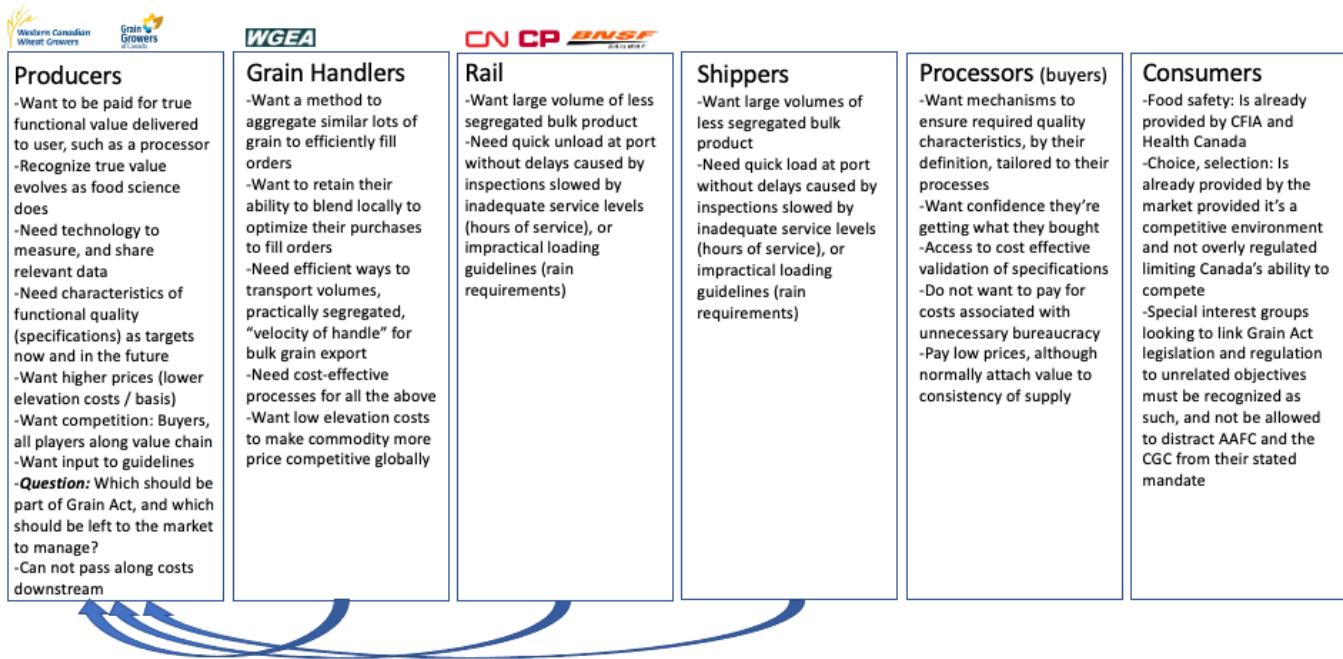
2) Governance:

- a) WCWGA support a governance model consisting of a CEO and board of directors structure.
 - i) This would allow for better representation of jurisdictions currently feeling under-represented.
 - ii) Provide a mechanism for users to hold leadership accountable and remove individuals if their performance is sub-standard.
 - iii) Change could be implemented more effectively using this proven model.
 - iv) We recommend the Board of Governors be an appropriate geographic and commodity mix of farmer and grain trade representatives. Each of these board members would serve on a part-time basis, meeting quarterly to provide overall direction and oversight to the CEO.

- v) WCWGA recommends the Standards Committees be strengthened by having better and more timely access to relevant information. Members should be well prepared and briefed by staff and selected by farmer organizations without AAFC Ministerial oversight. Members should be allowed to alter their representation at meetings, allowing for subject matter experts to engage while retaining the associated voting rights.
- vi) WCWGA recommends a review of the Canada Grain Act, and associated operations of the Canadian Grain Commission every seven years, due to the rapid increase in technology at play in the global grain sector.

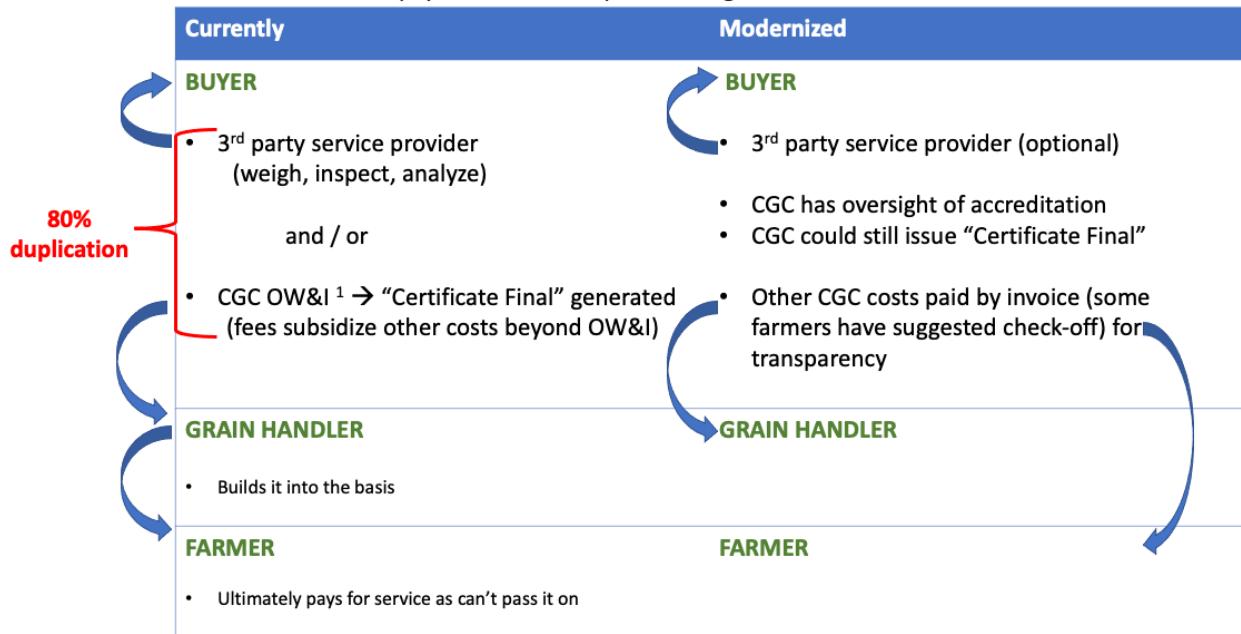
3) Funding

- a) WCWGA support GGC's recommendation for increased government funding for public good functions (US is 1/3 of budget).
- b) Visibility of cross-subsidization: For remaining costs, there's clearly an interdependency with outward weighing and inspection fees which currently generate the majority of revenues and cross-subsidize other CGC operational costs. After modernization initiatives are confirmed, and supporting operational costs projected, any cross-subsidization should be made transparent. Cost management is imperative. As seen in the following graphic, every decision incurring a cost, ultimately goes back to the farmer, who can seldom pass them forward to the consumer.



- c) For costs not covered by taxpayers, WCWGA support an invoice for CGC fees model, bringing transparency and awareness to those paying for the service. Terms could be set to allow for more accurate fees (once volumes incurring weighing and inspection are known). An alternative suggested by some farmers has involved a check-off to ensure transparency, as it could be a line item on a grain ticket.

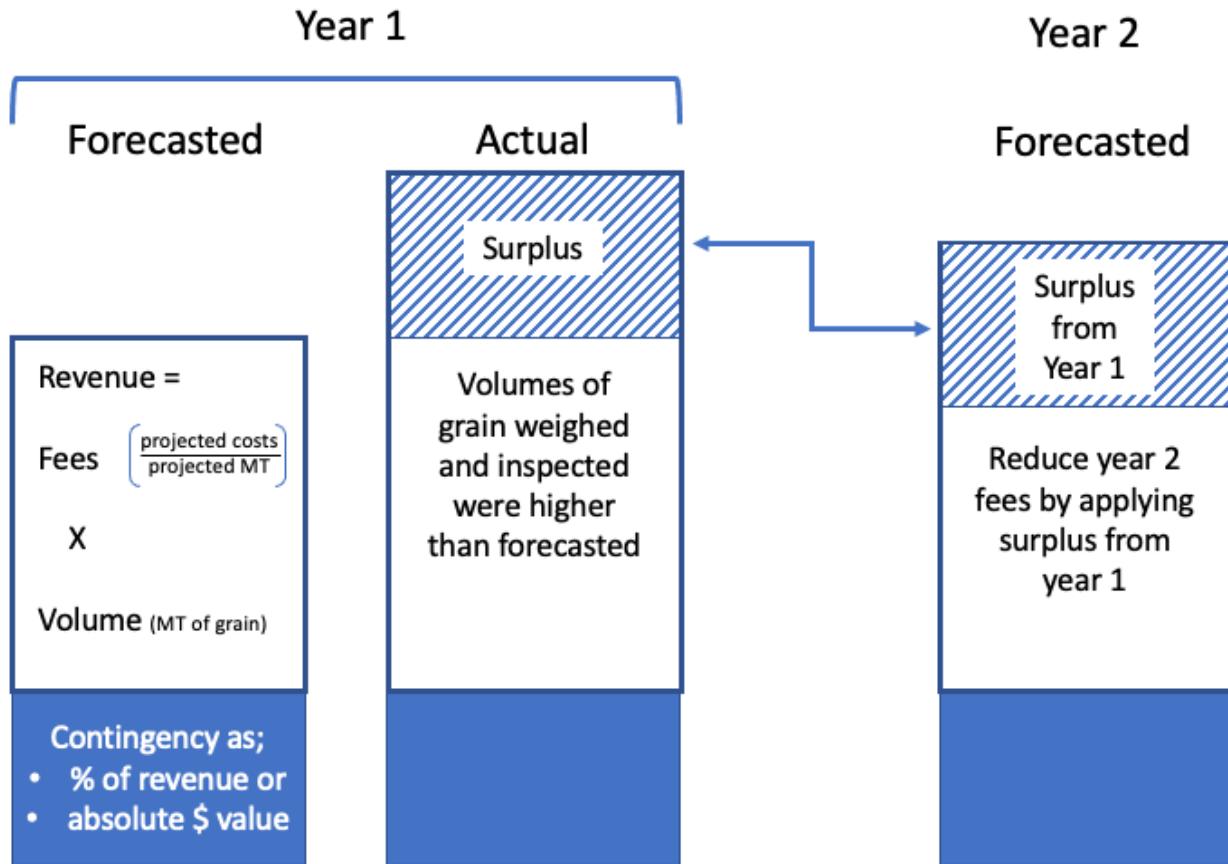
Arrow indicates who pays for services or passes along cost.



¹ OW&I = Outward weighing & inspection (done at port)

- 4) Surplus: Over the past several years, the CGC has built up a substantial surplus, based on fees determined by a forecasting model, and actual volumes weighed and inspected. Let there be no doubt that this surplus belongs to the farmers that paid excess fees through inspections services.
- a) WCWGA’s preference would be that these funds be immediately returned to the farmer that paid it. While we have been told that this is not feasible, it does not seem to be as onerous a task as has been suggested.
 - b) Failing this, no further fees should be collected until the surplus is eliminated, thus saving farmers from future unwarranted expenses. A normal “business cycle” for a farmer is a year, not five. WCWGA recommends that the CGC bring the surplus into balance with revised actual operating costs within the planning period at minimum, and preferably sooner. This exercise should incorporate a reasonable contingency, and factor in adjustments from this consultation to modernize the Act and Commission. A reduction in fees for the year following a surplus in excess of any contingency, should be done without delay.
 - c) Furthermore, WCWGA have a legal opinion that this excess fee charge is in fact an illegal tax.³ According to the Supreme Court of Canada, the Commission is in violation of section 53 of the Constitution Act, 1867 to the extent that the Commission does not immediately take reasonable steps to “match the revenues from the fees with the cost associated with the regulatory scheme.”¹

¹ <https://wheatgrowers.ca/wp-content/uploads/Legal-Opinion-CGC.pdf>



5) Grading and selling based on specifications:

- WCWGA advocates for options and flexibility which allows buyers and sellers to use either the CGC grading system, or specifications as set out in an agreement between the parties. The Act should acknowledge that classification and grading guidelines are effectively optional today, with international buyers able to set their own agreed upon terms and associated costs. Currently grain handlers use official grades, with add-ons within their own contracts with farmers. Incurring grading, weighing and inspection costs should be determined by the parties who pay for any chosen services. This is the simplest way to maintain the CGC quality system when buyers choose to use it, or not, in which case confidence in the characteristics of the product they're buying is secured through other means.
 - For example, if the end user is a flour mill and requires a target falling number, a characteristic not within the Grain Act, they currently manage such a requirement outside of the grading system. In that case, they can choose not to apply the CGC grading system at all, rather managing the transaction with their own agreement/contract.
 - If they're not using the system, they should be exempt from the associated fees.
 - This flexibility will ensure the grading system maintains relevance while allowing future market realities the flexibility required to operate cost efficiently.

- iv) The inherent advantage of the “Canadian Brand” for wheat are the characteristics of Hard Red Spring based on varieties, our climate, and production practices. It is not due to the grading and classification system. An “apples to apples” comparison is essentially what buyers perform internally, using 3rd party (labs) data. Canada would still be the “gold standard” brand using global metrics and specifications that are most used by global buyers.
- v) Whether selling on the basis of grades or specs, farmers should continue to have recourse to the CGC for an official inspection in cases where the quality of the grain is in dispute, assuming the characteristic is one the CGC has the capability to measure.

6) Separation of documents:

- a) Farmers would benefit from clarity about the varietal declaration content², versus corporate contractual conditions. When both are combined into a single document, confusion and misinterpretation develops about CGC guidelines.

7) Classification:

- a) WCWGA recommend a reduction in the number of classes to CWRS, CPRS and CWAD. The classification system should focus on those that truly are in significant demand by buyers. Incorporate others based on scientific data regarding the end use functionality and harmonize to export standards.
 - i) 96% of 2020 insured commercial acres were 3 classes; CWRS, CWAD, CPS.³
 - ii) The current language in the Act allows flexibility to alter both the classification as well as grading specifications and this allows for more efficient movement of grain, due to fewer segregation costs.

8) Technology:

- a) CGC should be a user of relevant technology, although as a regulator, not be a technology developer (although could provide direction to developers).
- b) Farmers expect CGC to explore existing technology and test applicability of it for use at the point of delivery. CGC should use the most cost-effective option for grading, although automation and consistency must be considered.
- c) As science and technology allows for infinitely greater levels of measurements of a wider array of characteristics, leave that for sellers and buyers to consider. Just because something can be measured doesn't mean it should be considered part of a grade, if not impacting end use functionality.
- d) CGC shouldn't be including parameters which cannot be practically measured and create unnecessary or crippling delays in grading.

² <https://grainscanada.gc.ca/en/protection/delivery/pdf/producer-declaration-20-21.pdf>

² https://www.country-guide.ca/crops/which-crops-were-hot-in-2020-and-what-was-not/?utm_source=GFM+Publications&utm_campaign=75c7f39723-Country+Guide+daily+enews+west+Mar+03%2C+2021&utm_medium=email&utm_term=0_2da8244677-75c7f39723-88750225

9) Legislation versus Regulation:

- a) In order to remain current and avoid the protracted length of time to bring this version of the Canada Grain Act forward for review, areas of implementation that are in keeping with the intent of the Act, should be changed through regulation. Such considerations would be given to fees and surplus accumulations, changes to inspection technology and global customer responses.

10) Mandate:

- a) CGC's focus should not be expanded, perhaps even tightened, although not extend beyond being "in the interests of producers." It is important that the CGC be seen as focusing on options that will create better service delivery while reducing cost. The CGC should be a regulator only, not a service provider. The current dual role of regulator and service provider is a conflict of interest and does not provide sufficient accountability.

11) Producer Protections:

- a) "Subject to": Extend the right of CGC to have a 2nd opinion to all licensees including processors, allowing up to 5 days to challenge a grade, and account for spec buying. Explore digital solutions, and technologies to determine grade quicker, with less variability.
- b) Samples should be held at the delivery point (elevator) for consistent periods of time, and in a sealed, tamper-proof container that ensures the integrity of the sample, should it be needed in the future.
- c) Data information needs to leverage the existing expertise and be available to enhance all commodity functions by coordinating the data available to help farmers, those who advise farmers and the marketing process. This should not interfere with commerce and competition. CGC may be able to play a coordinating role, or at minimum provide relevant data at their disposal.

12) Producer Payment Security:

- a) WCWGA suggests the current bond system be significantly enhanced if it were to continue, although a thorough review of alternatives is preferred. The principle of an optional fee for service, third party risk assessments, a fund (as in Ontario), private insurance, and a clearing house model have all been discussed. CGC should develop robust business cases for each as the market and assumptions have changed since any past analysis, the details of which should be shared. Ultimately, the costs are factored into a farmer's basis, so the most cost-effective model should be applied. Estimates of the current model indicate costs are greater than the benefits farmers receive.

13) Transparency & Accountability:

- a) Improving farmers' understanding of the CGC's functions and associated costs, would increase their confidence that operations were being managed optimally. The need for access to meaningful financial metrics to assess service and operational cost and performance, is a recurring theme in many of the above

recommendations. The recent addition of information to the Canada Grain Act Review website is a step in the right direction, although needs to go further, for example, providing access to past studies on alternative models⁴.

14) Producer Cars:

- a) WCWGA strongly recommends that producer cars be retained as a competitive option. Logistics and true costs must be factored into associated policies and procedures so as not to cripple overall movement of grain.

The Western Canadian Wheat Growers Association gratefully submits these recommendations for the review of the Grain Act. We look forward to the opportunity to discuss these recommendations further.

Further information regarding the WCWGA may be found at: www.wheatgrowers.ca

⁴ <https://www.grainscanada.gc.ca/en/about-us/org/initiatives/2021/canada-grain-act/producer-payment/alternatives.html>