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CANADA-U.S. GRAIN & SEED TRADE

US GRAIN PRODUCER  
FAQs

US Grain Producer Path

## **Thank you for your interest in information on Canada and U.S. Grain and Seed Trade.**

This document provides a selection of questions and answers (QandA) designed to help inform U.S. grain producers with marketing that may include sales and deliveries across the border. The QandA were developed with a focus on wheat, barley and durum producers. .

On August 1, 2012, Canada will implement the *Marketing Freedom for Grain Farmers Act*. The Act changes the way Western Canadian wheat and barley farmers market their grain by removing the mandatory requirement to market wheat and barley through the Canadian Wheat Board (CWB). Since the changes brought about by the *Marketing Freedom for Grain Farmers Act* are important to stakeholders in the Canada - U.S. cross-border trade of grains and oilseeds, several not-for-profit associations from both the U.S. and Canada are working together to provide information to facilitate the marketing of grain and seed between the US and Canada.

*More information is available from the Ag Canada: What Farmers Need to Know Backgrounder.* <http://www4.agr.gc.ca/AAFC-AAC/display-afficher.do?id=1323988816376&lang=eng>.

*We welcome your comments and additional questions. Please submit them via email to:* [Questions@Canada-USSeedandGrainTrade.info](mailto:Questions@Canada-USSeedandGrainTrade.info) or [Comment@Canada-USSeedandGrainTrade.info](mailto:Comment@Canada-USSeedandGrainTrade.info)

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## **US Grain Producer Frequently Asked Questions and Our Answers Follow**

## Grain Producer Frequently Asked Questions and our Answers Table of Contents

<b>1) Introduction .....</b>	<b>6</b>
a) How does Canada's new grain marketing legislation (the <i>Marketing Freedom for Grain Farmers Act</i> ) affect trade? .....	6
b) How do the changes to the Canadian system affect U.S. producers' ability to deliver wheat to Canada? .....	6
c) Will the Canadian Wheat Board still exist after August 1, 2012? .....	6
<b>2) Finding a Buyer .....</b>	<b>7</b>
a) Where can I find a listing of Canadian grain elevators and buyers? .....	7
b) What elevators in Canada will accept U.S. origin grain? .....	7
<b>3) Grading System, and How Grain Quality is Determined.....</b>	<b>8</b>
a) What are the objectives of Canada's official grain grading system? .....	8
b) Can grain of U.S. origin receive an official Canadian grade? .....	8
c) Can grain of U.S. and Canadian origin be commingled in a Canadian elevator?.....	8
d) Does Canada's system restrict the varieties of wheat that Canadian producers can grow? .....	8
e) Does a seller of U.S. grain need to provide varietal information in Canada? .....	9
<b>f) Is there a difference in the way Canada and the U.S. measure and report protein content?.....</b>	<b>9</b>
g) What are the statutory grain classes of Canadian wheat?.....	10
<b>h) What are the requirements to receive a Canadian statutory grade?.....</b>	<b>10</b>
i) Does Canada's grain grading system facilitate sales on specification as well as statutory grades? .....	10
j) What are the key similarities and differences between the U.S. and Canadian grading systems?.....	11
k) How and why is Canada's grading system linked to Canada's variety registration? ....	11
<b>4) Contracts and Pricing .....</b>	<b>13</b>
a) What is the process for entering into forward contracts or making spot deliveries of U.S. grain into Canadian grain facilities?.....	13
b) How do sellers of grain of U.S. origin into Canada compare nominal Canadian and U.S. prices? .....	13
c) Where can pricing information be found for grain delivered to Canadian elevators? ...	14
d) What trade rules govern cash grain sales at Canadian elevators? .....	14
e) Can U.S. origin grain be priced against Canadian futures contracts?.....	14

<b>5) Crossing the Border</b> .....	<b>15</b>
a) <b>Where are the Canadian / U.S. border crossings located?</b> .....	15
b) <b>What identification is required to enter Canada from the U.S.?</b> .....	15
c) <b>What customs and other documentation is required for grain to enter Canada from the U.S.?</b> .....	15
d) <b>What are the licensing, registration and fuel requirements for U.S. trucks transporting grain within Canada?</b> .....	15
e) <b>What are the load restrictions for grain trucks on Canadian highways?</b> .....	16
f) <b>What documentation is required to import grain of U.S. origin into Canada?</b> .....	17
g) <b>What if the grain requires further processing (includes cleaning) after entering Canada?</b> .....	18
h) <b>Are there any additional requirements if the grain or grain products being imported into Canada are for animal feed?</b> .....	18
i) <b>Are end-use certificates required for shipments of grain of U.S. origin into Canada?</b> .....	18
<b>6) Regarding Delivery Of Grain</b> .....	<b>20</b>
a) <b>What sampling methods are used by Canadian grain elevators when receiving grain by truck?</b> .....	20
b) <b>Grain of U.S. origin delivered into Canada can receive a U.S. grade in Canada. How is the grade determined?</b> .....	20
c) <b>What documentation is required regarding the producer's chemical use when grain of U.S. origin is delivered to a Canadian grain facility?</b> .....	20
d) <b>Where can I find information regarding chemicals approved in the U.S. but not in Canada or approved in Canada but not in the U.S.?</b> .....	20
e) <b>Where can I find information regarding MRLs in Canada?</b> .....	21
f) <b>What recourse do sellers of U.S. grain have with quality problems or rejection in Canada?</b> .....	21
<b>7) Settlement - Payment</b> .....	<b>22</b>
a) <b>When is payment received for U.S. grain delivered to Canadian elevators?</b> .....	22
b) <b>What is required to prove clear title to U.S. grain delivered to Canadian elevators?</b> .....	22
c) <b>How are grain facilities licensed in Canada?</b> .....	23
<b>8) Check-offs, Taxes and Other Deductions:</b> .....	<b>24</b>
a) <b>What check-offs will U.S. grain delivered to Canadian elevators be subject to?</b> .....	24
b) <b>What other deductions will be made from the settlement for U.S. grain delivered to Canadian grain facilities?</b> .....	24

<b>9) More on Relevant Regulation and Standards .....</b>	<b>25</b>
<b>a) What other information is important for grain deliveries in Canada?.....</b>	<b>25</b>
<b>b) What if the grain is to be re-exported from Canada? .....</b>	<b>25</b>
<b>c) Once the grain shipment enters Canada are there any additional conditions that must be followed? .....</b>	<b>25</b>

## QUESTIONS AND ANSWERS

### 1) Introduction

**a) How does Canada's new grain marketing legislation (the *Marketing Freedom for Grain Farmers Act*) affect trade?**

Deliveries of Canadian wheat and barley can now be contracted and sold through the open market from any supplier and to any buyer for delivery after August 1, 2012.

Effective August 1, 2012, the cross-border system for wheat, durum and barley trade will work as it does for other commodities such as canola and pulses. Export licenses will no longer be needed to export wheat, durum or barley from Canada. Grain entering Canada would still be subject to Canada's phytosanitary requirements.

**b) How do the changes to the Canadian system affect U.S. producers' ability to deliver wheat to Canada?**

The *Marketing Freedom for Grain Farmers Act* does not change the current situation for U.S. producers delivering wheat into Canada. While there are no regulatory restrictions on cross-border deliveries, beyond phytosanitary requirements, Canada does have different marketing practices and grading regulations that U.S. producers need to be aware of when delivering grain into Canada. As in any commercial transaction, U.S. producers must determine if selling into Canada is profitable.

**c) Will the Canadian Wheat Board still exist after August 1, 2012?**

Yes. The Canadian Wheat Board will exist after August 1, 2012, but will be known as the CWB. The CWB will continue to operate as a state trading organization for up to five years, albeit without a monopoly on the marketing of wheat and barley. It will operate voluntary commodity pools for farmers and grain buyers who wish to avail themselves of the CWB's service.

## 2) Finding a Buyer

### a) Where can I find a listing of Canadian grain elevators and buyers?

The majority of the grain and process elevators in western Canada (with the exception of feedlots and feed mills) and many grain dealers in Canada are licensed by the Canadian Grain Commission (CGC). Grain facilities that are licensed by the CGC are listed on the CGC website at <http://www.grainscanada.gc.ca/statistics-statistiques/geic-sgc/geicm-msgc-eng.htm>.

For a list of grain operations operating outside the jurisdiction of the Canada Grain Act or lawfully exempted from its provisions by the CGC, refer to the CGC website at: <http://www.grainscanada.gc.ca/licensee-licence/ugc-ccna-eng.htm>.

It should be noted that the CGC does not license primary or process elevators in eastern Canada located in Ontario, Quebec, or the Maritime provinces. Individual provincial licensing regimes exist in these areas. A list of grain handling facilities licensed in Ontario is listed on Agricorp's website at <http://www.agricorp.com/en-ca/Programs/GFPP/Pages/CheckLicence.aspx>.

Sellers of U.S. grain wishing to deliver to a Canadian grain facility are advised to contact the company prior to delivery to obtain the information necessary to conclude a commercial transaction.

### b) What elevators in Canada will accept U.S. origin grain?

In accordance with the *Canada Grain Act* licensed elevators in Canada are required to accept delivery of any grain<sup>1</sup> offered to them if they have available space to handle the grain. However, licensed elevators are not required to accept delivery of any grain that has gone or is likely to go out of condition (e.g. insect infestation, heated grain, etc.). Grain companies, however, are free to set their buying prices at levels that reflect the quality of the grain and the sales and logistical programs the companies have in place.

Sellers of U.S. grain wishing to deliver to a Canadian grain facility are advised to contact the company prior to delivery to obtain the information necessary to conclude a commercial transaction.

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<sup>1</sup> The following seeds are designated as grain for the purposes of the *Canada Grain Act*: barley, beans, buckwheat, canola, chick peas, corn, fababeans, flaxseed, lentils, mixed grain, mustard seed, oats, peas, rapeseed, rye, safflower seed, solin, soybeans, sunflower seed, triticale and wheat. "

### 3) Grading System, and How Grain Quality is Determined

**a) What are the objectives of Canada's official grain grading system?**

Canada's official grain grading system brands Canadian grain by assuring consistent quality for buyers, stimulates ongoing quality improvement by relating quality to price, facilitates fair payment to producers based on quality attributes, and helps to inform production decisions.

More information about Canada's grading system can be found on the Canadian Grain Commission website at: <http://www.grainscanada.gc.ca/fact-fait/grades-eng.htm#a>

**b) Can grain of U.S. origin receive an official Canadian grade?**

Yes, but U.S. origin wheat, if it is graded according to Canadian statutory grades, will only be eligible for the lowest official statutory Canadian Grain Commission grade in the particular class (e.g., Feed Wheat or # 5 Amber Durum).

However, the Canadian grain-grading system does allow U.S. wheat imports into Canada, provided that phytosanitary and other requirements are met. In addition, Canadian grain companies and processors are free to bid for, accept delivery of and settle grain of U.S. origin based on U.S. grades and establish premiums and/or discounts for grading specifications including moisture, protein content, falling number, dockage, admixture, foreign material, damage, vomitoxin, vitreous kernels etc. in the same way grain companies and processors do in the U.S. It is important that sellers of U.S. grain into Canada discuss the various quality parameters and grading factors with the buyers in Canada prior to delivery.

**c) Can grain of U.S. and Canadian origin be commingled in a Canadian elevator?**

Yes. Grain of U.S. and Canadian origin can be commingled. If graded according to Canadian statutory grades, the commingled grain will receive the lowest official statutory Canadian Grain Commission (CGC) grade for that class. In addition, it can receive a Certificate Final (officially certified at point of export or sale) from the CGC that will read "Mixed Canadian and Foreign Grain" and list the specifications as requested. Mixed origin grain is also eligible for domestic sale and export sale based on U.S. grades and the specifications of the grain.

**d) Does Canada's system restrict the varieties of wheat that Canadian producers can grow?**

No. Canadian producers are free to grow any variety of wheat, including U.S. varieties, and deliver them into the licensed grain handling system. However, only registered varieties grown in Canada are eligible for statutory grades other than feed or the lowest numerical grade in a given class (e.g. Feed Wheat or #5 Amber Durum).



**e) Does a seller of U.S. grain need to provide varietal information in Canada?**

No, unless varietal specifications are a requirement of the commercial sales contract. U.S. origin wheat, if it is graded according to Canadian statutory grades, will only be eligible for the lowest official statutory Canadian Grain Commission (CGC) grade in the particular class (e.g., Feed Wheat or #5 Amber Durum).

Prior to delivery, a seller of Canadian or U.S. grain will enter into a contracting process with the grain handling facility. On delivery in Canada, the seller will be asked to declare if the variety is on the CGC 'Variety Designation Lists' and if the grain is of Canadian origin.

This is referred to as a "Declaration of Eligibility." This form is completed annually at every licensed grain handler where a producer makes a delivery in Canada. These declarations are legal contracts between producers and licensed grain handlers – there is no CGC or Canadian Food Inspection Agency (CFIA) enforcement.

If a producer is not able to make this declaration, the grain is eligible only for the lowest official statutory CGC grade in the particular class (e.g., Feed Wheat or #5 Amber Durum).

However, the Canadian grain-grading system does allow U.S. wheat imports into Canada, provided that phytosanitary and other requirements are met. In addition, Canadian grain companies and processors are free to bid for, accept delivery of and settle grain of U.S. origin based on U.S. grades and establish premiums and/or discounts for grading specifications including moisture, protein content, falling number, dockage, admixture, foreign material, damage, vomitoxin, vitreous kernels etc. in the same way grain companies and processors do in the U.S. It is important that sellers of U.S. grain into Canada discuss the various quality parameters and grading factors with the buyers in Canada prior to delivery

**f) Is there a difference in the way Canada and the U.S. measure and report protein content?**

Yes there are some differences, as well as many similarities.

An important difference is in the reporting of test results for wheat. In Canada, protein for wheat is reported on a 13.5% moisture basis and in the U.S. protein for wheat is on a 12% moisture basis. This difference in moisture will result in U.S. protein being reported as approximately 0.2% higher than the equivalent Canadian value. In other words, in Canada a 13.5% protein on 13.5% moisture basis is equivalent to a 13.7% protein on a 12% moisture basis in the U.S.

In terms of barley, the moisture basis for protein in the U.S. and Canada is reported on a dry matter basis, as such there is no adjustment required.

Both the Canadian Grain Commission (CGC) and U.S. Federal Grain Inspection Service (FGIS) will report protein on an alternate moisture basis upon request using simple mathematical calculations to convert results.

The CGC in Canada and FGIS in the U.S. use the same reference method for analyzing the protein content of grains and oilseeds which is combustion nitrogen analysis (CNA). The CNA laboratory supports the NIRT instruments that are used for official testing in Canada and the U.S. The CNA reference method incinerates samples and captures and measures the nitrogen content. This is then converted to protein content. FGIS and CGC use CNA method AOAC 992.23, or the equivalent method AACC 46-30

**g) What are the statutory grain classes of Canadian wheat?**

Canadian wheat varieties fall into 17 unique classes. The varieties within each class are grouped by their functional characteristics. For example, varieties in the Canada Prairie Spring Red class have medium hard kernels and medium dough strength.

Canadian wheat classes are categorized by the regions in which the varieties are grown, either Canada Western or Canada Eastern. Only Canadian grown grain is eligible to be included in a statutory grain class.

A description of Canadian wheat classes can be found on the Canadian Grain Commission website at <http://www.grainscanada.gc.ca/wheat-ble/classes/classes-eng.htm>.

**h) What are the requirements to receive a Canadian statutory grade?**

Only varieties that are registered and grown in Canada can be eligible to receive statutory grades. U.S. origin wheat, if it is graded according to Canadian statutory grades, will only be eligible for the lowest official statutory Canadian Grain Commission grade in the particular class (e.g., Feed Wheat or # 5 Amber Durum).

However, the Canadian grain-grading system does allow U.S. wheat imports into Canada, provided that phytosanitary and other requirements are met. Canadian grain companies and processors are free to bid for, accept delivery of and settle grain of U.S. origin based on U.S. grades and establish premiums and/or discounts for grading specifications including moisture, protein content, falling number, dockage, admixture, foreign material, damage, vomitoxin, vitreous kernels etc. in the same way grain companies and processors do in the U.S. It is important that sellers of U.S. grain into Canada discuss the various quality parameters and grading factors with the buyers in Canada prior to delivery.

**i) Does Canada's grain grading system facilitate sales on specification as well as statutory grades?**

Yes. The Canadian grain grading system facilitates sales by specifications in several ways.

- The Canadian Grains Commission (CGC) certifies cargoes on the basis of grades or contract specifications at the request of exporters
- The CGC performs analysis and issues Letters of Analysis and Statements of Assurance for specific quality attributes.

For more information on Canada's grain grading system and the regulatory role of the Canadian Grain Commission please refer to:

<http://www.grainscanada.gc.ca/research-recherche/quality-qualite-eng.htm>

**j) What are the key similarities and differences between the U.S. and Canadian grading systems?**

The two systems are similar in that both systems establish official grades for all major grains, form a basis for transactions as well as facilitate price discovery and value communication. Both grading systems allow for sales by specification.

The two systems differ in that the official grading system in Canada encompasses a broader spectrum of specifications. As a result, there are more statutory grades in Canada versus the U.S. The U.S. system is more reliant on contract specification reducing the number of grades while allowing the contract specifications to capture customer wants rather than the statutory grade.

Canada's system is closely linked to variety evaluation and registration. There is no equivalent official variety registration system in the U.S. In the U.S., variety can be mandated by contract specification between the buyer and seller.

Both systems modify grade specifications in response to industry demand. Canada relies more on statutory grades to reflect industry demand. The U.S. has fewer official grades and relies more on contract specifications to reflect industry demand.

Canada's grading system can apply to all wheat origins for trade on specifications but only Canadian-grown grain can receive official statutory grade certification other than the lowest statutory Canadian Grain Commission grade in the particular class (e.g., Feed Wheat or #5 Amber Durum). The U.S. system is not tied to any origin or variety requirements so, if examined under the official U.S. system, any wheat sample can be certificated with a U.S. official grade.

**k) How and why is Canada's grading system linked to Canada's variety registration?**

In order to maintain a high quality standard for statutory grades, the variety evaluation and registration process is closely linked to Canada's grain classification and grading system (i.e., a variety must be approved or registered to be eligible for prescribed classes). For many grains, including wheat and barley, varieties are only eligible for registration after undergoing thorough merit testing for end-use quality, disease resistance, and agronomic performance, and prove themselves to be better than or equal to 'check' varieties.

The integration of the grain classification system and variety registration requirements is continually evolving with changes in the agricultural sector. Historically the high emphasis on quality in cereal grains was by design and based on the premise that having a classification system based on the best functional properties would lead to the best value equation for Canadian grain producers.

## 4) Contracts and Pricing

### a) What is the process for entering into forward contracts or making spot deliveries of U.S. grain into Canadian grain facilities?

Grain generally enters the Canadian grain system under contracts that specify the delivery period, either spot or deferred.

In Canada a verbal agreement is considered an enforceable contract, however, in most cases a written confirmation will be forwarded to the producer to be signed.

Sellers of U.S. grain wishing to deliver to a Canadian grain facility are advised to contact the company prior to delivery to obtain the information necessary to conclude a commercial transaction.

Please note that while many of the contracts used to buy and sell grain include clauses under which buyer and seller agree to comply with the U.S. and Canadian regulatory prerequisites applicable to the contract, the grain buying and selling is an environment under which grain is essentially traded with an “implied warranty of merchantability” meaning the grain being sold is subject to a warranty implied by law that goods are reasonably fit for the general purpose for which they are sold. In international sales law, merchantability forms part of the ordinary purpose of the goods. According to Article 35(2)(a) of the United Nations Convention on Contracts for the International Sale of Goods, a seller must provide goods fit for their ordinary purpose.

### b) How do sellers of grain of U.S. origin into Canada compare nominal Canadian and U.S. prices?

Canada uses the metric system for weights and measures whereas the U.S. uses the English system.

In Canada, the weight of the grain delivered will be reported in metric ton (tonnes) and in the U.S. in bushels. For wheat the standard conversion is 36.74 bushels per metric ton (tonnes) and there are 2,204.6 pounds in a metric ton.

Conversion tables and calculators are available on the Agriculture and Agri-Food website at <http://www.agr.gc.ca/policy/income/cfip/btc.php>

Quality parameters are measured using the metric system and test weights are measured in kilograms/hectoliter or grams/half-litre. More information on test weights and conversions from bushel weights can be found on the Canadian Grain Commission website at <http://www.grainscanada.gc.ca/guides-guides/weight-poids/itw-rps-eng.htm>.

Grain prices in Canada are quoted in Canadian dollars per tonne. Canadian/U.S. foreign exchange quotes are available at your financial institution or various financial

websites. Some grain companies may provide prices in U.S. dollars per bushel upon request.

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**c) Where can pricing information be found for grain delivered to Canadian elevators?**

Sellers of U.S. grain wishing to deliver to a Canadian grain facility can obtain price information directly from the grain company either by phone or in some cases on company websites.

Canadian milling wheat, durum and feed barley futures prices are available on the ICE Canada website at [https://www.theice.com/futures\\_canada.jhtml](https://www.theice.com/futures_canada.jhtml) or from a futures broker or advisory service.

There are also numerous commodity advisory services in Canada and the U.S. that provide cash pricing and market information to farmers and merchants.

**d) What trade rules govern cash grain sales at Canadian elevators?**

There are no standardized rules for grains and oilseeds delivered to Canadian elevators. The conditions are contained within the terms of the contract. Arbitration of disputes is conducted through mutually agreed to arbitration or through the Canadian Federal or Provincial court system.

Sellers of U.S. grain wishing to deliver to a Canadian buyer are advised to obtain a copy of the buyer's contract prior to entering into any commercial transaction.

In Canada a verbal commitment is considered a binding legal contract.

**e) Can U.S. origin grain be priced against Canadian futures contracts?**

Yes, Canadian companies can use ICE futures contracts as well as U.S. future contracts to hedge purchases of wheat, durum and barley within the constraints of their risk management policies. Sellers of U.S. grain wishing to deliver to a Canadian buyer are advised to discuss pricing options and policies with their buyer prior to entering into a contract. Grain of U.S. origin is not deliverable against ICE futures contracts.

## 5) Crossing the Border

### a) Where are the Canadian / U.S. border crossings located?

Information regarding Canada Border Services Agency (CBSA) offices is available at <http://www.cbsa-asfc.gc.ca/menu-eng.html>

Information regarding U.S. Customs and Border Protection offices is available at <http://apps.cbp.gov/bwt/index.asp>

### b) What identification is required to enter Canada from the U.S.?

All drivers must have a valid driver's license for the transport unit they are operating.

All drivers and passengers must have a valid passport or Free and Secure Trade (FAST) identity card.

A criminal record may require a pardon/waiver prior to gaining entry into Canada. For example, a DUI offense appears on a criminal record and could present problems when crossing the border

Further information on the requirements for Americans travelling to Canada is available at <http://www.discoveramerica.com/usa/travel-information/entering-the-usa.aspx>

### c) What customs and other documentation is required for grain to enter Canada from the U.S.?

All carriers (Producer and Commercial) require a Canada Border Services Agency (CBSA) issued carrier code to cross the border. U.S. Trucks arriving at the border must have Customs paperwork including Pre-Arrival Review System (PARS) bar-code stickers, to reference entry information that has been filed with Customs in advance of arrival at the border.

Effective November 2011, it became mandatory for customs entries to be filed electronically a minimum of one hour in advance of the shipment arriving at the border. Shipments not filed in advance and within the minimum time allotment will not be permitted to enter into Canada (full enforcement commences November 2012).

### d) What are the licensing, registration and fuel requirements for U.S. trucks transporting grain within Canada?

U.S. producers hauling grains into Canada do not require specialized licensing (i.e., farm plates are permitted), if they are hauling their own grain.



U.S. producer trucks must be registered under the International Fuel Tax Agreement (IFTA) and have the appropriate IFTA sticker(s) affixed to their vehicle (see explanation below).

U.S. producer trucks require a U.S. Department of Transportation (DOT) # only as Canada accepts U.S. DOT#s.

U.S. producers use Ruby Red dyed diesel fuel that is tax exempt (strictly for “off road” use (i.e., farm use)). This fuel cannot be used for highway tractors for purpose of delivering grain within the U.S. and Canada. More information can be found at this Washington state website:

<http://www.dol.wa.gov/vehicleregistration/dyediesel.html>, and this IRS brochure: <http://www.dol.wa.gov/vehicleregistration/docs/IRSPub4941-dyediesel.pdf>

Some helpful FAQs for Federal Highway Administration Motor Fuel Tax Compliance is available here: <http://www.fhwa.dot.gov/motorfuel/faqs.htm>

U.S. Commercial Trucks must be registered and licensed in each jurisdiction they will travel through and for the weight they will be hauling. They must register through the International Registration Plan (IRP) in the base (home) jurisdiction of the vehicle.

**The International Registration Plan (IRP)** is a registration reciprocity agreement among states of the United States, the District of Columbia and provinces of Canada providing for payment of apportionable fees on the basis of total distance operated in all jurisdictions. Vehicles not registered under IRP require trip permits to travel into jurisdictions other than where they are registered. IRP's fundamental principle is to promote and encourage the fullest possible use of the highway system.

**The International Fuel Tax Agreement (IFTA)** is an agreement between 10 provinces in Canada and 48 states in the United States of America. The IFTA makes it easier for inter-jurisdictional carriers to register, license, report and pay taxes for motor fuels (such as diesel and gasoline). Carriers pay fuel taxes to their base jurisdiction, to which they register under IRP. Those taxes are then distributed to the jurisdictions in which the vehicles traveled.

**e) What are the load restrictions for grain trucks on Canadian highways?**

The Provincial and Territorial governments in Canada have authority over the weight and dimension limits which apply to the highways within their boundaries.

The Memorandum of Understanding (MOU) on Interprovincial Weights and Dimensions is intended to provide improved uniformity in weight and dimension limits through establishment of minimum and/or maximum thresholds acceptable to all jurisdictions for eight configurations of vehicles commonly used in interprovincial transportation. More information is available at:

<http://www.comt.ca/english/programs/trucking/MOU%202011.pdf>



Seasonal road restrictions are in place at certain times of the year on certain roads within the provinces particularly in the spring break-up period.

Sellers of U.S. grain wishing to deliver grain into Canada are advised to contact the provincial highways department prior to delivery to obtain the information necessary to ensure compliance with weight and dimension limits in the relevant provincial jurisdiction. More information is available at the provincial government department of highways websites:

Manitoba - <http://www.gov.mb.ca/mit/mcd/mcpd/twlm.html>

Saskatchewan - <http://www.highways.gov.sk.ca/load-limits>

Alberta - <http://www.transportation.alberta.ca/520.htm>

**f) What documentation is required to import grain of U.S. origin into Canada?**

Depending on the crop type being imported, its origin and its intended end use there may be phytosanitary import requirements (i.e., a phytosanitary certificate, an import permit, certificate of origin, or other document required).

The CFIA's import requirements are outlined in its Automated Import Reference System (AIRS) and can be found at the following link:

<http://www.inspection.gc.ca/plants/imports/airs/eng/1300127512994/1300127627409>

This system provides all importers and brokers with an outline of all the documents (i.e., phytosanitary certificates, import permits, certificates of origin, etc.) that may be required. AIRS is a searchable database where importers and brokers can use the Harmonized System (HS) code or the name of a commodity (common or botanical) to determine what the documentation requirements are that are specific to the origin, destination and end use of the material in Canada. The Canadian Food Inspection Agency (CFIA) is Canada's national plant protection organization and is responsible to protect Canada's plant resource base and issue phytosanitary certificates. The CFIA regulates the importation of any grain under the [Plant Protection Act](#) and Regulations and specific parts of the [Seeds Act](#) and Regulations.

All grain import requirements must be met prior to or at the time of importation and any shipment could be subject to inspection, sampling or testing. It is advised that persons wishing to deliver grain to a Canadian grain facility become familiar with the requirements of the CFIA regarding the importation of the particular grain into Canada.

The CFIA has developed an import primer document titled "Importing plants and plant products: what you need to know" and it provides a general overview of what is required to bring any plant product, including grain or seed into Canada. The weblink for this document is <http://www.inspection.gc.ca/plants/plant-protection/imports/primer/eng/1324568450671/1324569734910>

**g) What if the grain requires further processing (includes cleaning) after entering Canada?**

The importer will need to ensure that any grain or seed imported into Canada that requires further processing (such as cleaning), meets the requirements of CFIA directive D 96-07 (Import Requirements for Screenings and Grain and Seed for Cleaning). <http://www.inspection.gc.ca/plants/plant-protection/directives/grains-and-field-crops/d-96-07/eng/1312248301269/1312248485624>

This directive requires the importer to ensure that the facility that will be processing the grain has a compliance agreement with CFIA that outlines how the screenings generated from the further processing will be handled and disposed of.

**h) Are there any additional requirements if the grain or grain products being imported into Canada are for animal feed?**

All ingredients intended for use in livestock feeds must be approved. Approved livestock feed ingredients are listed in Schedules IV and V of the Feeds Regulations. The Schedules provide the approved name or names of the ingredient, as well as specifying the labeling requirements. Single ingredients listed in part I of either Schedule IV or V, may be imported without restrictions provided they meet the following criteria:

- The ingredient meets the compositional standards described in section 19 of the Feeds Regulations;
- The ingredient corresponds with the ingredient name and labeling standards described in the ingredient definition (without additional guarantees or claims);
- The labeling requirements set forth in section 26 of the Feeds Regulations are met.

Importers can demonstrate compliance of the ingredient imported by supplying the following documents at the time of importation;

- Canada Customs Invoice or Commercial Invoice; and
- Proof of exemption from feed registration.

**Proof of exemption from feed registration:**

The importer must reference the ingredient number in Schedule IV or V, and use the approved ingredient name on the import documentation, as a means of confirming that the ingredient is exempt from registration. The importer is responsible for ensuring that the ingredient being imported complies with the regulatory requirements described in the regulations prior to being offered for sale in the Canadian marketplace.

More information on the animal feed program can be found at:

<http://www.inspection.gc.ca/animals/feeds/eng/1299157225486/1320536661238>

**i) Are end-use certificates required for shipments of grain of U.S. origin into Canada?**

No. The *Marketing Freedom for Grain Farmers Act* eliminates the end-use certificate requirement for U.S. grain coming into Canada. Effective August 1, 2012, U.S. grain shipments into Canada will no longer require an end-use certificate. The regulations will be amended to reflect the legislative change, effective August 1, 2012.

## 6) Regarding Delivery Of Grain

### a) What sampling methods are used by Canadian grain elevators when receiving grain by truck?

Canadian elevators typically use a probe sample prior to unloading or a hand sample while unloading to sample grain received from trucks at the elevator. Each delivery sample is assessed for quality, sealed in a tamperproof sample bag container and maintained along with applicable and corresponding paperwork (i.e., Declaration, Record of Receipt/Payment, etc.)

### b) Grain of U.S. origin delivered into Canada can receive a U.S. grade in Canada. How is the grade determined?

Canadian grain companies and processors are free to bid for and settle grain of U.S. origin basis U.S. grades and establish premiums and/or discounts for grading specifications including moisture, protein content, falling number, dockage, foreign material, damage, vomitoxin, vitreous kernels, etc. in the same way grain companies and processors do in the U.S.

It is important that sellers of U.S. grain into Canada discuss the various quality parameters and grading factors with the buyers in Canada prior to delivery.

If the elevator company is purchasing the grain based on U.S. grades the sample can be inspected by an unofficial lab in the U.S. or Canada experienced in U.S. grading standards.

Sellers of U.S. grain wishing to deliver to a Canadian grain facility are advised to contact the company prior to delivery.

### c) What documentation is required regarding the producer's chemical use when grain of U.S. origin is delivered to a Canadian grain facility?

No specific documents related to chemical use are required to sell grain in Canada unless specified in the contract agreement.

### d) Where can I find information regarding chemicals approved in the U.S. but not in Canada or approved in Canada but not in the U.S.?

One good place is the International Pesticide & Application Database (IPAD) online at: <http://www.mrlidatabase.com/>

IPAD helps users determine rates and limitations on the usage of agricultural pesticides. IPAD is a crop specific database that cross references pesticides by chemical brand name, method of application, rates and frequency of application, as well as pre- and post-harvest interval. The database contains information for the U.S., Mexico, and Canada, 42 crops, 1400 active ingredients, 29 pesticide types, and 14 different timings resulting in nearly 24 million combinations. The IPAD system provides chemical use practices in order to ensure compliance with a target

country's MRL standards and provides practical guidance to maximize the benefit to the U.S. producer.

**e) Where can I find information regarding MRLs in Canada?**

MRLs for Canada can be found on the Health Canada website at <http://www.hc-sc.gc.ca/cps-spc/pest/part/protect-proteger/food-nourriture/mrl-lmr-eng.php>.

**f) What recourse do sellers of U.S. grain have with quality problems or rejection in Canada?**

If there is a question about a particular grade or factor within a grade there may be an opportunity for a representative sample to be drawn and submitted to a qualified third party at a different location.

Specific rights regarding grade determination may vary by company. Sellers of grain of U.S. origin should become familiar with their rights and obligations contained in their contract agreement regarding quality disputes.

## 7) Settlement - Payment

### a) When is payment received for U.S. grain delivered to Canadian elevators?

Canadian elevators can provide immediate payment via cash purchase ticket (grain cheques) at the elevator at the time of unload as long as a grade and price have been established. However, as per industry practice most often payment is made upon completion of the contract agreement or delivery period.

It is likely that Canadian grain companies and processors will establish the U.S. grade basis a representative sample sent to a lab that is familiar with U.S. grading standards and make settlement for the grain delivery when results are received from the lab.

Sellers of U.S. grain wishing to deliver to a Canadian grain facility are advised to contact the company prior to delivery to obtain the specifics of the company's settlement and payment process.

### b) What is required to prove clear title to U.S. grain delivered to Canadian elevators?

Canadian grain purchase contracts typically include a term whereby the seller represents to the purchaser that the seller is the owner of the grain in question and that the grain is free from all liens, charges or other security interests. As a result, if there is a problem with ownership of the grain, then the producer could bear personal liability to the grain company.

Each province also has a Personal Property Registry (PPR) which is likely similar to the system in the U.S. The PPR is open to the public and lists all liens and encumbrances on personal property, including grain. In order to confirm that grain delivered is not subject to liens or encumbrances, one could search the PPR and, if liens or other encumbrances are listed, require that proper consents or releases be provided by the lienholders.

However, notwithstanding the above, the most important factor in Western Canada is likely the Sale of Goods Acts of Manitoba, Saskatchewan, and Alberta, all of which have provisions pertaining to the sale of grain. The sections are very similar in each province and essentially state that where a grain dealer purchases grain in good faith and without notice of "defect or want of title" on the part of the seller, then the purchaser acquires good title to the grain. In Alberta, the buyer is required to keep a record showing the kind of vehicle from which the grain is delivered and its licence number.

From a practical standpoint, usually where a creditor has issues with a producer and intends to realize on its security over grain, then notice of the security interest is sent to all grain companies in the geography where the secured grain may be delivered.

Having been notified of the security interest, the receiving grain company will then require direction from the creditor with respect to payment at the time of delivery.

**c) How are grain facilities licensed in Canada?**

The Canadian Grain Commission is a federal government agency that operates under the authority of the [Canada Grain Act](#). Under the Act, grain dealers and operators of primary, terminal, process and transfer elevators must be licensed by the Canadian Grain Commission or exempted from licensing.

A list of grain dealers and licensed facilities is available on the Canadian Grains Commission website at <http://www.grainscanada.gc.ca/statistics-statistiques/geic-sgc/geicm-msgc-eng.htm>. However, it should be noted that the CGC does not license primary or process elevators in Eastern Canada located in Ontario, Quebec, or the Maritime provinces. Individual provincial licensing regimes exist in these areas. A list of grain handling facilities licensed in Ontario is listed on Agricorp's website at <http://www.agricorp.com/en-ca/Programs/GFPP/Pages/CheckLicence.aspx>.

**g) What is the payment protection program in place for deliveries to licensed grain handling facilities in Canada?**

The Canadian Grain Commission's (CGC's) producer payment protection program is a security based mechanism. Under the *Canada Grain Act* (CGA), companies which purchase grain from western grain producers are required to be licensed by the CGC and to post security (in the form of a bond, irrevocable standby letter of credit or guarantee, payables insurance, or cash deposit), to cover eligible producer grain liabilities. In the event of a bankruptcy or a failure to pay a producer, the CGC may realize on the security and compensate the eligible producer claims, including eligible U.S. producer claims.

The CGC fixes the amount of security to be provided by a particular applicant for a license. Security is fixed for a potential licensee by taking into consideration their proposed estimate of annual grain purchases of western grain from producers. The plans, practices, and processes to be implemented to maintain the financial obligation liabilities to producers are also taken into account.

The licensed grain dealer, primary elevator and process elevator licensee's monthly liability reports are used to monitor the ongoing adequacy of security. The CGC conducts risk-based or regular on-site audits from time to time to monitor that liability reports have been completed properly. There is no regulatory requirement for licensees to keep their liabilities under their posted security. (NOTE: Pursuant to the CGA and its regulations, any eligible liability incurred by a CGC licensee is eligible against security for a period of 90 days from the day of delivery of the grain.) More information on this program is available at: <http://www.grainscanada.gc.ca/producer-producteur/pp-pup-eng.htm>

## **8) Check-offs, Taxes and Other Deductions:**

### **a) What check-offs will U.S. grain delivered to Canadian elevators be subject to?**

Most grain delivered in Canada is subjected to a provincially regulated mandatory check-off to provincial commodity associations. Sellers of U.S. grain into Canadian grain facilities are not generally subject to a check-off but should obtain the check-off information from the company they are dealing with in Canada.

In the case of wheat and barley, a federal mandatory/refundable check-off is being implemented that will apply to wheat and barley grown in Western Canada. As such, it should not be applied to U.S. wheat or barley being delivered into Canada.

### **b) What other deductions will be made from the settlement for U.S. grain delivered to Canadian grain facilities?**

Other than the checkoffs described in a) above, we are not aware of any common or additional deductions from the quoted delivered price as long as all specifications of the contract are met. Sellers should always check with buyers regarding terms for delivery. Settlement may include adjustments related to contract requirements.



## 9) More on Relevant Regulation and Standards

### a) What other information is important for grain deliveries in Canada?

The CFIA has created an information kit for customs brokers that act on behalf of an importer bringing grain or seed into Canada. The weblink to this document is <http://www.inspection.gc.ca/english/imp/kite.shtml>.

Imports of grain to Canada are regulated on the basis of the origin, destination of the grain and the end use for the material. In order to be released into Canada, grain importers must decide what the end use of the material will be, and the grain must meet the requirements as specified in AIRS at the time of importation. It is not possible to import grain for “all” or “unknown” end uses because such imports would be expected to enter with all documents to cover every possible end use for the material.

### b) What if the grain is to be re-exported from Canada?

Once traded beyond the first point of delivery, we address the grain transaction under the Grain Commercial module on this website. For any grain or seed that is going to be re-exported from Canada, it is the exporter’s responsibility to ensure the commodity meets the import requirements of the destination country. Commodity-specific export requirements may be available by contacting local CFIA offices or by verification these through import permits issued by the importing country or by contacting the official national plant protection organization in the importing country. In most cases, once a grain shipment has been cleared by Canada Border Services Agency (CBSA) on behalf of the CFIA, it can move within Canada. In cases where an import permit was required, the importer is still obligated to follow all conditions set out in an import permit. A list of local CFIA contacts is available at the following link: <http://www.inspection.gc.ca/about-the-cfia/offices/eng/1313255382836/1313256130232>

### c) Once the grain shipment enters Canada are there any additional conditions that must be followed?

In most cases, once a grain shipment has been cleared by Canada Border Services Agency (CBSA) on behalf of the CFIA, it can move within Canada. In cases where an import permit was required, the importer is still obligated to follow all conditions set out in an import permit.