



The Agricultural Producers Association of Saskatchewan (APAS)
Response to the Canadian Grain Commission's Proposal to
License Agents, Feed Mills and Producer Car Loading Facilities

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Background

The Agricultural Producers Association of Saskatchewan (APAS) is Saskatchewan's general farm organization, formed to provide farmers and ranchers with a grassroots, democratically elected farm organization. With the input of its members, APAS is instrumental in the development of innovative farm policy to both address many of the issues currently affecting agriculture and with a vision for creating new opportunities for Saskatchewan producers.

As mandated under the Canada Grains Act, the Canada Grains Commission (CGC) provides services and protections of importance to Saskatchewan grain producers. These include weights and grades, dispute resolution, access to transportation and protection from payment default. The CGC also plays an important role in assuring the quality, safety and integrity of Canadian grain as dependable commodity for export.

In April of 2015, APAS responded to the CGC's proposal to license feed mills in order to provide payment protection to this segment of the marketplace. The APAS submission expressed support for the proposal in principle and further requested that licensing not impose undue administrative and financial costs on any operations engaged in primary agricultural production. In addition, the submission also supported reforms to the CGC payment protection program, specifically the development of a "payment protection fund" that was proposed in Bill C48, *The Modernization of Canada's Grain Industry Act*. Our support was based on the position that use of a fund, as opposed to licensee bonds, would make program costs and coverage levels more transparent for producers. As a result of the October federal election, Bill C-48 failed to make it past first reading, and to our knowledge there has been no commitment to re-introduce this legislation and move forward with these necessary reforms.

The need to license producer car loading facilities (PCLFs) has not been raised within APAS as a priority issue for our members. In fact, it is APAS policy that the right to load and ship producer cars is a fundamental right that must be maintained and enhanced. Producer cars are a cost-effective shipping alternative and an important source of competition within the grain handling and transportation system. Producer cars shipments also help support Saskatchewan's shortline railways, which are often community-based with significant buy-in and support from local producers. For these reasons, APAS Representatives reviewed the CGC's proposals in detail to develop our recommendations.

Summary of Recommendations

Bill C-48 and a “fund-based” approach to producer payment security

In close consultation with producers, the CGC, working with the Minister of Agriculture and other Parliamentarians, should immediately renew efforts aimed at reforming the current bond-based approach to payment protection. The payment protection “fund” introduced in Bill C48 should be used as a starting point.

Agent Licensing Exemption

Any agent that is purchasing grain from producers and incurring payment liabilities should be licensed to ensure consistent payment protection and fair commercial treatment across the grain industry.

Feed Mill Licensing Exemption

The CGC should proceed with the removal of feed mills’ licensing exemptions in order to provide payment protection to this segment of the market. The proposed 5,000 tonne threshold for licensing should be increased to mitigate concerns that too many smaller, on-farm feed mills would require licensing.

Producer Railway Car Loading Facility Licensing Exemption

Producer car loading facilities not purchasing grain from producers should maintain their current licensing exemptions, including those that ship leased cars (dealer cars). Any facility purchasing grain from producers should be licensed and bonded with the CGC. A full review of the CGC’s statistics program should be conducted as part of the federal government’s ongoing review of the grain handling and transportation system and the Canada Transportation Act. The commercial needs of all small grain shippers, including PCLFs, should also be fully examined as part of this review prior to proceeding any further with this proposal.

Rationale for Recommendations

Bill C-48 and a “fund-based” approach to producer payment security

Recommendation:

In close consultation with producers, the CGC, working with the Minister of Agriculture and other Parliamentarians, should immediately renew efforts aimed at reforming the current bond-based approach to payment protection. The payment protection “fund” introduced in Bill C48 should be used as a starting point.

Rationale:

There are significant problems with the current approach to payment security that must be addressed. The cost of the program and the amount of coverage provided is not transparent for producers. As a recent case of bankruptcy in the industry has shown, the current system is capable of producing security shortfalls, leaving producers with significant amounts owing. APAS considers the fund-based mechanism introduced under Bill C48 a good foundation for reforming payment protection.

Agent Licensing Exemption

Recommendation:

Any agent that is purchasing grain from producers and incurring payment liabilities should be licensed to ensure consistent payment protection and fair commercial treatment across the grain industry.

Rationale:

Agents purchasing grain from producers should be licensed for the purposes of providing producers with payment security and access to binding determination of grade and dockage as well as other dispute resolutions mechanisms. Licensing exemptions for agents and grain dealers represent a longstanding gap in regulations that has led to instances where producers receive inconsistent treatment when selling their grain to dealers and brokers. For instance, members have repeatedly raised concerns that agents, exempted from CGC licensing, continue to deduct shrinkage charges on grain sales, despite a regulated zero allowance for primary elevators. APAS appreciates the CGC’s review of industry trends to ensure that any market participant purchasing and taking physical ownership of grain are licensed and bonded with the CGC.

Feed Mill Licensing Exemption

Recommendation:

The CGC should proceed with the removal of feed mills' licensing exemptions in order to provide payment protection in this segment of the market. The proposed 5,000 tonne threshold for licensing should be increased to mitigate concerns that smaller, on-farm feed mills would require licensing.

Rationale:

APAS policy is that feed mills must be licensed in order to deliver payment protection to this segment of the marketplace. Our objective is also to ensure that licensing does not impose undue administrative and financial burdens on small and medium sized enterprises, which in this case includes livestock operations purchasing grain for feed supplies.

Livestock operations with on-farm feed mills have approached APAS with a number of concerns about the proposed threshold and the licensing requirements outlined in the CGC proposal. Hog operations in particular tend to operate with narrow and inconsistent margins and would have difficulty fulfilling the CGC's security/bonding requirements. Many of these facilities also do not have administrative staff and would have difficulty fulfilling the requirements listed under "Annex B – Licensing Requirements for Process Elevators", specifically the need to submit weekly reports of their operations. Feed mills have also raised questions about around the \$3,700 licensing fee and whether these fees exceed the CGC's cost of delivering payment protection program in the feed mill industry.

The CGC should proceed with licensing of feed mills, but increase the proposed threshold of 5,000 tonnes of grain purchases to mitigate these concerns. We note that the proposed 5,000 tonne threshold is approximately half the initial APAS recommendation of \$1,800,000 of annual grain purchases (converted to approx. 10,000 to 12,000 tonnes). APAS also recommended that a new "feed mill class" of license be established that would include only those requirements necessary for delivering payment protection.

Producer Railway Car Loading Facility Licensing Exemption

Recommendation:

Producer car loading facilities not purchasing grain from producers should maintain their current licensing exemptions, including those that ship leased cars (dealer cars). Any facility purchasing grain from producers should be licensed and bonded with the CGC. A full review of the CGC's statistics program should be conducted as part of the ongoing review of the grain handling and transportation system and the Canada Transportation Act. The commercial needs of all small grain shippers, including PCLFs that ship dealer cars, should also be fully examined within this review prior to proceeding any further with this proposal.

Rationale (6 points below):

a) Producer car loading facilities that do not purchase grain pose minimal risks to producer protection:

Producer car loading facilities simply provide producers an opportunity to load, and sometimes store, grain to be shipped via producer car. Some facilities provide onsite storage and high capacity throughput to load cars in a timely and efficient manner. Sometimes this service is provided on a fee for service basis. As the industry evolves and some facilities increase their handling capacity, APAS agrees the CGC should closely monitor these facilities to ensure they are not violating the licensing exemption condition that they do not purchase or deal in grain. Any facility this is purchasing or taking physical ownership of grain should be licensed and bonded with the CGC.

APAS also feels that weighing equipment that is not used to purchase grain should not be required to comply with Measurement Canada regulations, as final sale weight is determined at the unload destination. Access to CGC arbitration to settle grade disputes and payment complaints is also not applicable, since these facilities do not incur producer payment liabilities nor do they assess quality and determine grade. CGC arbitration services are still required at the unload destination where weight, grade, quality and other contract specs are determined.

b) Licensing costs would undermine the low-cost advantage that allows producer car loading facilities to compete

Throughout these consultations, producer car shippers and shortline railway operators have raised a number of concerns around the financial and administrative costs outlined in the CGC

proposal. For instance, many facilities do not have weighing equipment. Those that do have scales would require upgrades at significant cost to bring their equipment up to Measurement Canada standards. Many facilities also do not have employees, are not set up to collect, store and inspect grain samples. For most facilities, it would be simply be uneconomical to train employees and/or hire staff to perform these tasks.

c) Licensing producer car loading facilities will not substantially improve the CGC's grain quality assurance program

We note that it is the purchaser, as licensed grain buyer, who is responsible for collecting, storing and inspecting samples for CGC purposes. It is our understanding that infestations and other grain safety issues are detected and reported during unload. As mentioned above, PCLFs do not have staff trained to detect grain quality issues. We also note that a significant portion of producer car shipments are loaded outside of an organized loading facility. Licensing only those facilities' on the basis of some predetermined criteria, sites with staff onsite, unnecessarily adds complexity to the proposal and would not likely provide meaningful improvements to the CGC's overall grain quality assurance program.

a) Licensing PCLFs that ship dealer cars to improve the CGC's administration of the producer car allocation program was not explicitly addressed in the proposal

For the reasons cited above, we do not feel that removing licensing exemptions for facilities that ship both producer cars and dealer cars will provide meaningful improvements to the CGC's producer protection, grain safety assurance, and statistical monitoring programs. In subsequent discussions with CGC officials and other stakeholders, it was suggested that licensing PCLFs that ship both dealer cars and producer cars will improve the CGC's administration of the producer car allocation system. As this was not explicitly included in the proposal, we feel it should not be used as a rationale for any decisions resulting from this consultation. The CGC may wish to reissue a proposal which addresses this concern directly.

b) There are currently many gaps in the CGC statistical program that are better addressed in the ongoing review of the grain handling and transportation system

It is stated in the proposal that producer car loading facilities represent a gap in the CGC's grain statistical reporting program. The CGC collects basic information about producer car grain movement through its administration of the producer car allocation system, although this information varies from the type of information gathered at terminal and primary elevators.

However, PCLFs represent a very small portion of overall grain movement for which the CGC lacks complete regulatory oversight.

The CGC currently has no reporting requirements or oversight of grain transported by truck and container. Annual grain volumes transported by each of these two modes transportation far exceed volumes shipped by producer car annually. According to CGC producer car figures, producer car shipments have not exceeded 2 million tonnes in a single crop year. In the 2015/16 crop year, Canada's Grain Monitor estimates that 3.214 million metric tonnes were trucked into the U.S.. Container loading elevators are also exempt from CGC licensing. It has been estimated that approximately 18% of grain exports leaving Vancouver are shipped in containers.

Given the significant system-wide gaps in information and reporting of grain handling statistics, APAS recommends that the information requirements for PCLF's be addressed within a full review of the CGC's statistical reporting program. This review would preferably be conducted as part the ongoing review of the Canada Transportation Act to allow other stakeholders, including producers, to provide input into the types of information needed to enhance market transparency and performance accountability in the grain handling system. In a submission to the CTA Review Panel, APAS and a coalition of Saskatchewan farm groups provided a list of pricing and logistical indicators that are needed to enhance transparency for grain farmers. We note that some of these indicators, including the tracking of forward sales and vessel load and unload information, could potentially be included within the CGC grain monitoring and reporting programs.

- c) The commercial needs of all small grain shippers, including PCLFs that ship dealer cars, should be fully examined within the CTA review prior to proceeding any further with this licensing proposal.**

APAS believes that producers who wish to load and ship their own cars should be encouraged to order those cars through the CGC producer car ordering system. The increased use of dealer cars at some facilities is noted, as is a recent decline in the number of producer car shipments. The role of small grain shippers, producer cars and shortline railways continues to evolve in the grain handling and transportation system. The transportation crisis in 2013/14 revealed the extent to which their long-term commercial success is vulnerable to the commercial decisions of the mainline carriers. We view small grain shippers as an important source of competition and innovation in the grain industry. Understanding the long-term commercial needs of small shippers, including producer cars, is therefore a key objective within our participation in the

CTA review. It makes sense to wait until these needs are fully examined and addressed prior to proceeding any further with the proposal to license producer car loading facilities.

Conclusion

The APAS objectives in responding to this review are to ensure producers are adequately protected from payment default and provided fair commercial treatment across the grain industry. For this reason, APAS supports extending payment protection to feed mills and agents to deal with potential liabilities in the marketplace. It is also our objective to ensure licensing does not impose undue administrative and financial costs on small and medium sized enterprises. This objective speaks to the need to increase the proposed 5,000 tonne threshold for feed mill licensing and move forward with reforms to CGC payment protection. The fund based program, introduced in Bill C48, will go a long way in reducing the overall administrative costs associated with CGC licensing.

Our recommendation to maintain licensing exemptions for producer loading facilities is framed around the principle that government policy should support and encourage the use of producer cars as a cost effective shipping alternative. There are concerns that licensing will impose undue financial and administrative costs on these loading facilities without significant improvements to the CGC's producer protection, grain safety assurance, and statistical monitoring programs.