



National Farmers Union

Submission to the  
Canadian Grain Commission

on the issues of  
Maximum Shrinkage Deductions  
at Licensed Process and Transfer Elevators  
and  
Moisture Shrinkage Allowance for Grain Artificially Dried  
at Licensed Primary Elevators

October, 2009

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#### **Introduction**

The National Farmers Union welcomes this opportunity to present its views on the issue of shrinkage deductions on grain. The NFU represents thousands of grain farmers in the prairie region who have a direct interest in the regulatory framework under which the Canadian Grain Commission operates.

The NFU has put forward the views of its members on numerous occasions over the past decade on issues involving the Canadian Grain Commission. We believe it is of critical importance that the integrity of the mandate of the *Canada Grain Act* be maintained, and that the Canadian Grain Commission operate in the interests of grain producers.

#### **Maximum Shrinkage Deductions at Licensed Process and Transfer Elevators**

Shrinkage is defined in the *Canada Grain Act* as “the loss in weight of grain that occurs in the handling or treating of grain.” The Canadian Grain Commission sets maximum shrinkage allowances by regulation, and although the CGC has the authority to set maximum shrinkage levels at all types of elevators, it is not required to set maximums for all types of elevators. In particular, “grain dealers” are afforded ample opportunity for exemption from shrinkage allowances. A “grain dealer”, as defined in the Act, is “a person who, for reward, on his own behalf or on the behalf of another person, deals in or handles western grain.” While the regulations state that grain dealers trading on their own account or as agents must be licensed, there is a loophole that allows unlicensed grain dealers to play the system. Anyone trading in grain, while acting as an agent for a licensed grain dealer, can thus effectively, and legally, circumvent the licensing requirement.

Shrinkage allowances for most facilities have been gradually reduced by the CGC through regulatory changes since the 1990s, thanks in large part to the advance of technology in the grain handling field. Shrinkage allowances at licensed terminal elevators were regulated to zero in 1990. In 2003, licensed primary elevators’ shrinkage allowances were set at zero. However, there

are currently no maximum shrinkage allowances prescribed in the Canada Grain Regulations for grain delivered to licensed transfer elevators or process elevators.

As the CGC background paper states, the absence of a uniform maximum shrinkage allowance for all facilities has provided an advantage to process elevators and transfer elevators. The fact that the CGC is undertaking this review is welcome news. The National Farmers Union recommends that the CGC set the maximum shrinkage deduction for licensed transfer elevators and process elevators at zero for all types of grain, including damp and tough grain.

The fact that maximum shrinkage allowances at these facilities are currently not specified in the Canada Grain Regulations opens the door for manipulation by grain companies. In fact, shrinkage has historically been a convenient vehicle for grain companies to pad their profits. Likewise, shrinkage has historically been a source of frustration for farmers, as they ultimately paid the price for grain “lost” during the course of loading, handling and unloading. The official history of the Canadian Grain Commission<sup>1</sup> provides an indication of how extensive the problem was:

“Overages in country elevators had been a problem from the beginning of the elevator business in the west. Some operators, fearful of having shortages at the end of the year, routinely took a small amount of grain from each farmer delivering into the elevator. This could be done in a number of ways. For example, when weighing in a wagonload, the operator might not wait for the scale to balance perfectly. The weight he assigned to the load would be less than the actual amount in the wagon. The difference would go toward a surplus or gross overage. A net overage, or a surplus on grain after the dockage was removed, could be produced by taking more dockage than was warranted.

“The problem was brought before the Turgeon Royal Commission in 1923. The remedy offered by the Board of Grain Commissioners at that time was to allow the elevator agents to take a small percentage of the grain handled, as a compensation for shrinkage – that is grain lost in handling through spillage and the like. Before 1923, shrinkage had only been allowed on special bin grain; after it was allowed on all grains, in a percentage set by the Board. In 1931, overages again became an issue... All companies had operators who took not only the shrinkage allowance, but an extra amount of grain, for insurance.”

The current regulations allow licensed transfer elevators and process elevators to have shrinkage deductions as a negotiable item in the contract between the owner of the grain and the grain handling facility. However, the reality is that even though shrinkage deductions constitute part of the contract, they are rarely negotiable. It is the grain company that sets the deduction and farmers generally comply with whatever the company dictates.

Grain dealers that are also licensed primary elevators must comply with the regulations regarding maximum shrinkage allowances. However, many grain dealers, because of the aforementioned loophole existing in the *Canada Grain Act*, are not required to abide by those regulations. The NFU recommends that all grain dealers, even those that are operating as agents of a licensed

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<sup>1</sup> J. Blanchard, A History of the Canadian Grain Commission 1912-1987, Minister of Supply and Services Canada – 1987, page 68.

facility or licensed dealer, also be required to be licensed. Further, the NFU recommends that all grain dealers be required to abide by a maximum shrinkage allowance of zero.

## **Moisture shrinkage allowances for grain artificially dried at licensed primary elevators**

The NFU welcomes the CGC review of moisture shrinkage allowances for grain that is artificially dried at licensed primary elevators. The NFU also welcomes the CGC's stated intention of eliminating the 1.1 percent moisture rebound factor used to calculate moisture shrinkage at primary elevators.

The current regulations, which permit primary elevators that artificially dry grain to deduct moisture shrinkage using a calculation formula that includes a 1.1% allowance for moisture rebound,<sup>2</sup> are flawed because the calculation formula is based on inaccurate information. The CGC acknowledges this fact in its background paper on these consultations.

The NFU welcomes the change in the regulation because it corrects a regulation that is based on inaccurate information. The actual moisture and weight of grain does not change during the rebound phase after artificial drying, so it is unnecessary to apply a “rebound factor” of 1.1 percent. Allowing primary elevators to apply the additional 1.1 percent shrinkage allowance factor to artificially-dried grain results in the producer being paid for fewer tonnes than were actually delivered to the elevator.

As noted by the CGC, a similar moisture shrinkage allowance for artificially-dried grain at terminal elevators has already been removed. The application of this new regulation should be of benefit to farmers, as well as create a more level playing field among grain handling facilities. It is important that the CGC continue to ensure that the grain quality and quantity assurance system is based on objective scientific methods.

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<sup>2</sup> Canadian Grain Commission, Consultation Document, Maximum Shrinkage Deductions at Licensed process and transfer Elevators, July 2009. “Primary elevators are permitted to deduct moisture shrinkage when artificially drying producers’ grain but must do so in accordance with CGC orders...CGC Order No. 2008-31...directs that licensed primary elevators that dry grain for producers cannot charge for drying to less than 1.1 percent below the fixed minimum tough moisture level specified for that grain...For example, in the case of wheat, where the fixed minimum tough moisture value is 14.6%, the lowest moisture value an elevator can use to calculate moisture shrinkage allowance is 13.5% (14.6%-1.1%). This 1.1 percent factor has been specified by CGC order since at least the mid-1980s. This 1.1 percent below the fixed minimum tough moisture level was introduced for two reasons. The first reason was to compensate primary elevators for an effect called moisture rebound. Moisture rebound occurs because artificially drying grain causes the outside of the kernel to dry, leaving the centre with a higher moisture content. After a period of time, the moisture from the centre of the kernel gradually migrates outward bringing the kernel to moisture equilibrium. With current technology, it is impossible to determine the actual moisture content of grain for up to 24 hours after artificially drying it. The moisture result obtained immediately after drying will be lower than the result after moisture rebound. Regardless, the actual moisture and weight of the kernel remain fixed during the rebound process. The second original reason for the 1.1 percent rebound factor was to ensure that elevators did not excessively charge producers for moisture rebound and to ensure that the elevators did not over-dry grain to take advantage of the weight reduction from the producer and then use the extra dry grain to naturally dry or blend a separate lot of tough grain...Statistical information or technical data to support the across-the-board 1.1 percent moisture rebound factor or a lesser value factor is not available...Moisture rebound also varies from grain to grain and elevator to elevator.”

## **CGC Licensing Review**

The CGC has indicated it will be undertaking a “Licensing Compliance Initiative”, with the intent of either licensing or exempting from licensing all elevators and grain dealers as defined by the Canada Grain Act. The CGC is currently reviewing whether licensees are issued the proper class of license by reviewing the licensee’s facilities and the activities undertaken by each licensee. Classes of licensees include terminal elevator, transfer elevator, process elevator, primary elevator, and grain dealer.

It is to be hoped that the CGC will undertake to ensure that grain dealers are licensed according to the proper class. Based on their activities, many of the grain dealers that are in operation should actually be classified as primary elevators, and be subject to the regulations applicable to that classification. If grain dealers are licensed properly, then many of the exemptions that grain dealers currently enjoy under the regulations would be nullified.

In particular, grain dealers under the current licensing requirements are not obliged to have a weigh scale certificate from Measurement Canada.<sup>3</sup> The importance of accurate and fair weights for grain transactions is obvious, and it is important for the CGC to rectify this shortcoming in the licensing requirements. Likewise, the licensing requirements should oblige grain dealers to have approved sampling, inspection, weighing, drying and cleaning equipment. Grain dealers should also be “subject to inspectors’ grade and dockage”.

The NFU urges the Canadian Grain Commission to ensure that producer car shippers are involved in this consultation process. In the past, many elevator companies have attempted to have producer car shippers licensed as primary elevators. Under the Canada Grain Act, of course, primary elevators are not allowed to ship producer cars. It is vital that farmers retain the right to load and ship their own producer cars.

## **Conclusion**

The NFU welcomes the proposals put forward by the Canadian Grain Commission regarding the issues of maximum shrinkage deductions at licensed process and transfer elevators; and moisture shrinkage allowance for grain artificially dried at licensed primary elevators. The proposals are constructive and will be beneficial for farmers.

The NFU thanks the CGC for the opportunity to put forward comments on those proposals. On the issue of the licensing review, we hope that our comments and recommendations are taken into account by the CGC as the review proceeds.

*All of which is respectfully submitted  
By the National Farmers Union*

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<sup>3</sup> Canadian Grain Commission, Notice of Intent – Licensing Review, July 20, 2009, Annex 1 – Licensing Requirements by Class of License.