



union farmer newsletter



Seed Regulatory Modernization – What’s it all about?

When Canadian farmers buy seed, we know that registered varieties perform well in our growing conditions, do not harbor serious plant diseases, and will produce crops our customers value because they are independently assessed by experts (including farmers and Canadian Grain Commission scientists) on Recommending Committees. We know the variety’s characteristics, such as days to maturity, yield, disease resistance, height and other data relevant to the crop kind, because results from independent testing are published. We have the choice of using pedigreed seed that meets standards for varietal purity; common seed sold by other farmers as long as it is not covered by Plant Breeders Rights restrictions; or farm-saved seed we grow ourselves. We have access to heritage varieties from small independent seed growers too. Seed growers and seed dealers must ensure the pedigreed seed they sell meets grade standards for maximum numbers of weed seeds, other crop seeds, germination and for certain susceptible crops, diseased seed. The Seeds Regulations require most of our broadacre commercial crops (cereals, oilseeds, pulses, forages) – with the exception of corn – to be registered varieties. Most vegetable crops don’t require variety registration, but horticultural seed must be graded to ensure it meets germination standards, or else be properly labelled to provide buyers with information about the seller and the seed.

All of these benefits result from over a century of farming within a seed regulatory system that was designed to promote quality crops, prevent serious disease problems, and protect farmers from fraud. While there have been some changes to these regulations over the years, the basic purpose and structure of our seed regulations has remained constant over the entire lifetimes of today’s farmers.

Our regulations have served us well, but if big seed corporations have their way, all this will change. The federal government’s Seed Regulatory Modernization process currently underway is a critical crossroads where global corporations seeking to control Canada’s seed for their own benefit are challenging our public interest-based seed regulatory framework.

The NFU has always been a leader in defending farmers’ seed rights, and this challenge is no different. We know that farmers, not corporations, need to control seed in order for us to have food sovereignty, and to advance agroecology, so members of the NFU’s Seed Sovereignty Committee have been working hard to protect farmers’ interests throughout this process. Consistent with the NFU’s model *Seed Act for Farmers* we are standing up for farmers’ rights to seed and working to ensure we retain a viable public plant breeding sector guided by farmers’ and the public interest.

Food sovereignty is the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. It puts the aspirations and needs of those who produce, distribute and consume food at the heart of food systems and policies rather than the demands of markets and corporations.”

– from the Nyéléni Declaration

Why now?

The Seed Regulatory Modernization review and potential overhaul of Canada’s seed regulations was put in motion with the 2018 federal budget as part of the government’s overarching regulatory reform agenda. The corporate seed sector’s *Seed Synergy* initiative, and the *Agri-Food Economic Strategy Table* established as a result of *Barton Report* recommendations, were major influences on the government’s decision to make seed one of its first targeted regulatory reviews. The corporate seed sector, which includes globally dominant companies Bayer, Corteva, Syngenta and BASF (whose interests are now represented by Seeds Canada) has been aggressively lobbying for radical changes to the seed regulations that would dramatically increase their power and ability to extract wealth from Canadian farmers.

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In February 2019 a Seed Regulatory Modernization Working Group (SRMWG) was appointed. This is a 14-member multi-stakeholder committee with representatives from the seed industry, producer groups, commodity associations, public plant breeders and two non-government organizations. The Canadian Food Inspection Agency (CFIA) is responsible for running the SRMWG process. The process also involves several Task Teams that delve into more technical details and report back to the SRMWG with recommendations. While the NFU was not asked to be a member of the SMRWG, the NFU has members on the Task Teams for Grade Tables, Variety Registration, and Common Seed. The SMRWG process does not include the regulations dealing with novel plants (ie. gene editing).

The SRMWG will make recommendations to the CFIA. We expect there will be opportunities for public engagement before the CFIA drafts a regulatory change proposal. It will be important for NFU members to participate and help inform and motivate other farmers to stand up for seed regulations that work for us. The CFIA expects to submit its proposed regulations to the Canada Gazette process for public review in the fall of 2023 before a final text of revised regulations will be prepared for Cabinet to approve.

Support for our current regulatory system is strong

In 2021 the CFIA surveyed farmers (including seed growers), commodity groups, seed companies, academics and others to get input on potential changes to how seed is regulated in Canada.

There was an excellent response rate from farmers. Results show that a strong majority want the government to continue to be in charge of regulations, to determine what is required on seed labels, set standards for purity and germination of pedigreed seed grades and include grade name on certified seed lots, and protect farmers from buying low-germination seed. There was little support for privatizing the CFIA's regulatory functions. Overall, less than 15% of all responses expressed dissatisfaction with the seed regulatory system as it currently exists – and the number of negative responses is, unsurprisingly, about the same as the number of respondents from the seed industry.

Seeds Canada's vision for a privatized regulatory framework

Seeds Canada was formed when four seed industry organizations amalgamated in early 2021. This was essentially a rebranding of the Canadian Seed Trade Association, as three of the four organizations were already members of the CSTA, the long-time lobby group for the corporate seed sector. Canadian Seed Growers Association (CSGA) members voted strongly to reject the Seeds Canada amalgamation proposal, denying Seeds Canada access to the CSGA's long-standing seed certification role and maintaining seed growers' independent voice. Seeds Canada has representatives at the SRMWG table, but they are not in the majority.

Building on its previous Seed Synergy project, Seeds Canada is proposing its own vision in a document titled *A Functional Framework for a Modern Seed System*, a radical departure from our current regulatory framework. The document uses buzz-words like competitiveness, investment, inclusion and transparency, but at its core, it is a roadmap to privatizing the CFIA's regulatory authority while relying on government funding to pay its costs: thus the term "industry-led, government-enabled."

Seeds Canada proposes a new board it is calling the "independent standard-setting body" (ISSB) with the authority to create rules and standards for variety registration, to eliminate grade standards, implement measures that would require farmers to use pedigreed seed, discourage or prevent farmers from buying and selling common seed and/or allow tracking of common seed sales in order to increase royalty collection on both common seed and farm saved seed. It also proposes a new category of seed it calls Verified Seed designed to undercut the Certified seed market, and which would be amenable to seed production by growers contracted to seed breeding companies. Though not mentioned in their document, it would be in Seeds Canada's interests to fast-track de-registration of older public domain varieties that are royalty-free as a way to further limit farmers' seed choices.

Seeds Canada expects gene-edited varieties to become widespread. Its proposed framework would streamline commercialization by allowing seed companies to submit one application form to get approval for gene-edited seed release, variety registration and UPOV 91 Plant Breeders Rights.

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With its *Framework* document, Seeds Canada has laid its cards on the table. The corporate seed sector does not want to be encumbered with cost and time needed to look after public interest. It wants to be able to sell based on companies' advertising priorities instead of published independent data, to reduce or even eliminate farmers' access to varieties that are not subject to UPOV 91 Plant Breeders Rights or patent rights, and to increase the amount of annual royalties companies can collect -- even on seed grown on farmers' own farms. The less choice farmers have, the easier it will be for the likes of Bayer, Corteva, Syngenta and BASF to use seed as a platform to sell expensive inputs and seed treatments that are incompatible with agroecological and climate-friendly production practices.

The outcome of the Seed Regulatory Modernization process is uncertain, as there is strong support for the main components of our existing, public-interest oriented regulatory system among farmers. Over the coming year, it is essential that we stand up and stop corporations from winning even more power over our agriculture and food system through regulatory change that will increase their control of seed. ■

Agroecology is a holistic approach to food production that uses—and creates—social, cultural, economic and environmental knowledge to promote food sovereignty, social justice, economic sustainability, and healthy agricultural ecosystems.

If you would like to join the NFU's Seed Sovereignty Committee, please contact Cathy Holtlander at holtlander@nfu.ca

Pest Management Regulatory Agency Legislative Review

—by Cathy Holtlander, NFU Director of Research and Policy

In December 2021, the Health Minister's [Mandate Letter](#) directed him to ensure Canadians are protected from risks associated with the use of pesticides and to better protect human health, wildlife and the environment, modernize and strengthen the Pest Control Products Act (PCPA) to ensure it supports transparency, use of independent scientific evidence and input to the decision-making process.

In June 2022, the NFU submitted a brief to the Pest Management Regulatory Agency (PMRA) review of the Act. The [full submission](#) is posted on the NFU website, and the following outlines key points we made. The NFU is also participating in the PMRA's Transformation Agenda Steering Committee to ensure our voice is included in discussions.

NFU members are farmers who must manage pest problems on their farms in order to make a living, thus we are acutely aware of the impacts of pesticide use on our own health and that of our families, neighbours and customers, and of their impacts on our farms and the broader environment. We have a deep understanding that our actions today will affect future generations. We support scientific research that is guided by the public interest, and recognize that science is a process of learning about our world.

The PCPA mandates the Health Minister “to prevent unacceptable risks to individuals and the environment from the use of pest control products”. It requires the Minister to be mindful of future generations, minimize health and environmental risks from pesticides, encour-

age public awareness and participation in decision-making; and ensure that only products of acceptable value are approved, and to use the precautionary principle.

The PMRA asked if the Act prevents it from implementing continuous oversight.

The NFU believes the Act allows continuous oversight, but could be strengthened by compelling companies to submit monitoring data as a condition of product registration. The monitoring would allow the PMRA to spot emerging risks through ongoing analysis of data. We also call for keeping the current 15-year review of registered products as a minimum standard.

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The PMRA asked if we would like any changes to how Maximum Residue Limits (MRLs) are set.

Canada's MRLs define allowable pesticide residue in foods Canadians consume whether imported or domestically produced. When deciding on MRLs, the Minister may consider only the health-related risks of the pesticide's residues, but can't consider the synergistic effects of exposure to a pesticide along with others commonly found in the food supply. We recommend the PMRA assess background levels of pesticides and integrate them into MRL decisions. We ask the PMRA to consider epigenetic effects of pesticide exposure when setting MRLs. The legislation also needs to be amended to give the PMRA authority to collect and publish MRL compliance data.

The PMRA asked if using plain language summaries of their decisions and studies would improve transparency.

We said the Act doesn't stop them from doing this now. We cautioned that plain language summaries must not replace detailed technical information during the review process and when announcing decisions, and should not be used to over-simplify.

The PMRA asked about transparency in relation to business confidentiality considerations.

Canada's *Access to Information Act* requires disclosure of results and methods of product or environmental testing carried out by or on behalf of a government institution with the consent of the third party to whom the information relates – unless the public interest environment clearly outweighs any loss or gain to a third party. We recommend amending the *Access to Information Act* to make the public interest top priority: companies' business interests should not take precedence over our health and environment. We also recommend the PCPA should ban advisory body appointees with financial or professional ties to the pesticide industry.

The PMRA asked how it can improve its public consultation processes.

We said they should ensure the economic interests of pesticide companies are not allowed to influence its decision-making. Pesticide companies should not have privileged access to the regulator, the Minister or their political advisors.

The PMRA asked about how it should share water monitoring and pesticide use data.

We said they PMRA should not rely on data provided by or influenced by companies. The risks from pesticide formulations require study in both the real world and the lab. Pesticides are never delivered as pure active ingredients. There is a gap in the PMRA's information due to its focus on active ingredients alone. Real world and lab data about products' adjuvants, surfactants, and carrying agents are needed to assess the risks of the products as they are used in the real world. We recommended that water monitoring and pesticide use data and methodology should be published annually. The PMRA needs to avoid using overly aggregated data when reporting to the public, as too-broad categories make it impossible to see patterns, trends, hotspots, etc., that are needed for understanding the significance of the monitoring data and its relationship to policy and regulatory decisions.

To read the full brief, please visit:

<https://www.nfu.ca/policytypes/nfu-briefs/>

Putting Limits on Farmland Investment Companies

The NFU noted two provinces had private members' bills in spring 2021 aimed at putting limits on farmland investment companies. In Alberta, MLA Glenn van Dijken (UPC) introduced Bill 206, *Prohibiting Ownership of Agricultural Lands (Pension Plans and Trust Corporations) Act*, and MNA Émilise Lessard-Therrien (Québec Solidaire) brought forward Bill 991 *An Act to combat agricultural land grabbing*.

Alberta already bans foreign ownership of farmland over 20 acres. Bill 206 would also ban pension funds from owning farmland. Quebec's current farmland law ensures only Quebec residents and Quebec-owned corporations can own more than 4 hectares. Bill 991 would go further by banning private investment funds (but not pension funds) from direct or indirect purchase of farmland. It would also improve transparency with a public registry of agricultural land transactions. While few private members' bills ever get passed, the fact they were proposed suggests more Canadians are ready to talk seriously about this issue.

The NFU in Ontario highlighted these two bills in a call for the province to enact legislation to prohibit the direct or indirect purchase of agricultural land by private investment funds and establish a public agricultural land registry.

All provinces need effective land ownership laws to prevent wealthy investors, whether Canadian or foreign, from continuing to drive the price of farmland above its productive value. Without such limits, land speculation will exclude ever more farmers from affordable and secure access to land.