



May 10, 2007

Harold A. Hedley
Special Advisor, Canadian Wheat Board
Sectoral Policy Directorate
Strategic Policy Branch
Department of Agriculture and Agri-Food
Sir John Carling Building
930 Carling Avenue
Ottawa, ON
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Dear Mr. Hedley,

**Re: Canada Gazette, Part 1
April 19, 2007
Regulations amending the Canadian Wheat Board regulations**

The Western Canadian Wheat Growers Association wishes to provide the following comments on proposed amendments to the Canadian Wheat Board (CWB) regulations.

The Wheat Growers fully support the proposed regulatory changes. We are convinced that implementation of these changes will create a more vibrant barley industry and improve the profitability of farmers in Western Canada.

Benefits of the proposed regulatory change include:

- 1) Improved returns for farmers. Under the current CWB monopoly, prairie farmers do not receive clear market price signals. This often means good sales opportunities are missed, particularly in years of rising market prices, when the CWB is constrained in its ability to attract barley supplies from farmers. The inability to take advantage of these sales opportunities means that more barley ends up being sold in the domestic feed market, which in turn reduces domestic feedgrain prices. Moving to a marketing choice environment will improve farmer returns from sales of feed and malt barley in export markets, as well as improve prices for barley and all other feedgrains in the domestic market.
- 2) Greater flexibility for farmers to manage the delivery and sale of malt barley. Under the current system, farmers often bear the cost and risk of storage and the risk of downgrading losses at unload. Moving to a free market in barley will give individual farmers greater ability to manage these risks and to sell their barley, either through forward contracts or spot markets, at a time that better matches their individual cashflow, pricing and storage needs.
- 3) Improved ability to access new barley markets. Implementing marketing choice will unleash the entrepreneurial energy of farmers and companies. Rather than having a single desk under which all sales must be filtered, there will be thousands of sellers each seeking out the best possible return, whether it is a single container load or several hundred thousand tonnes.

Innovative, farmer-driven solutions.

- 4) More investment in research. Moving to a more flexible marketing environment will give malting and grain companies a greater incentive to offer farmers barley contracts for the production of varieties with specific traits. The increase in identity-preserved contracting systems will create more profitable opportunities for farmers and seed developers alike.
- 5) Greater local processing opportunities. We have seen tremendous growth in recent years in the processing of canola, oats and pulse crops on the prairies. Freeing up the barley market will undoubtedly spur greater processing of barley in western Canada, especially when you consider the current high transportation costs of shipping raw barley by truck or rail.

In summary, we believe that implementing a market choice environment in barley will improve the profitability of prairie farmers and will create a more dynamic barley industry, including greater investment in research, market development, and barley processing.

Transition issues

As is the case with most regulatory changes, there are transition issues to be considered. We provide comment on how some of these issues might be addressed.

Existing CWB malt barley contracts

Based on media reports and our discussions with industry, it is evident that the CWB made advance sales of malt barley last year to at least one maltster at prices that are well below current market values. This has raised concerns that the CWB may not be able to attract supplies from farmers to fulfill these contracts.

The Wheat Growers consider it absolutely essential that the CWB honour the terms of any and all of its sales contracts. Companies that entered into these contracts with the CWB would have done so in good faith, and have every right to expect these contracts to be honoured.

If a large percentage of the CWB's existing sales (whether feed or malt barley) were made at low prices, then the CWB may indeed have difficulty attracting sufficient supplies through the normal pool accounts to meet these sales commitments. If that turns out to be the case, then the CWB should enter the cash market and source sufficient supplies directly from farmers. We note that the CWB had interest earnings in the barley accounts of \$4.9 million in the latest crop year, so this should provide a source of funds in which it can effectively compete for supplies.

As well, over the past five years, the CWB board of directors has authorized the transfer of \$15.2 million in interest earnings from the CWB malt and feed barley pool accounts into its contingency fund. Unless the CWB seriously misread the market and booked an inordinate amount of advance sales at low prices, these funds should provide an ample cushion in which to underwrite any cash sales.

The CWB and others have argued that the federal government should "cover the losses" on these contracts, and that it "shouldn't come out of farmers' pockets". What rings hollow about this argument is that if the CWB were to maintain its monopoly, then these losses would indeed come directly out of farmers' pockets through lower pool account returns. Under our proposal, farmers won't have to pay directly for these mistakes, and actually stand to gain from attractive cash price offers.

Possible legal action

We understand that various parties are contemplating legal action in an attempt to overturn the government's policy direction, despite the expressed wishes of farmers. We fervently hope no legal challenge will be brought forward as it would only serve to create commercial uncertainty. We note too that any party who brings forward a legal action to overturn the free market would, if successful, be condemning prairie farmers to yet another year of low malt barley returns under the CWB monopoly.

To guard against the possibility of legal action, the Wheat Growers believe it would be prudent for the federal government to have alternate regulations ready to be implemented if the proposed regulations are overturned by the courts. We note, for example, that a marketing choice environment can be implemented by instructing the CWB to (a) issue no-cost export permits to any farmer or grain company that wishes to apply for them; and (b) allow domestic malt processors to purchase barley directly from farmers.

The CWB already exempts certain exports from the CWB monopoly control (e.g. pedigreed seed sales, manufactured feed, and grain produced outside the designated area) and has the authority to grant further exemptions under the existing CWB Act. Given that the CWB has the discretion to provide export licences to farmers or others at zero cost under existing legislation, we maintain the federal government also has the discretion to instruct the CWB to provide export licenses at zero cost under existing legislation, and should be ready to do so if necessary.

Also, we note that in December, 2006 the CWB itself announced a policy under which it authorized certain domestic processors to purchase up to 500 tonnes of wheat or barley direct from prairie farmers. The CWB board of directors authorized this 500 tonne exemption without holding a producer plebiscite. We agree that it is fully within the board's discretion to authorize an exemption of 500 tonnes, 5,000 tonnes, 50,000 tonnes or any amount it so wishes. If it is within the authority of the CWB's board of directors to allow such exemptions under the Act, then we maintain it is also within the federal government's authority to allow such exemptions under the Act, and it should be ready to do so if necessary.

In our view, it is extremely important that these alternate "contingency regulations" be ready for immediate implementation and that the federal government make it known that these alternative means of implementing marketing choice are available to it. This will reduce market uncertainty by providing farmers and industry with much greater assurance that marketing choice will be implemented. Moreover it may help to convince any party that is contemplating legal action that taking such action against the wishes of farmers and the federal government will be ultimately fruitless.

Early introduction of Barley Freedom Day

In order to bring even greater certainty to the marketplace, the Wheat Growers ask the federal government to consider implementation of marketing choice prior to August 1, 2007. We understand some companies are reluctant to enter into forward contracts with farmers or buyers until they have greater certainty that the proposed regulations will not be overturned. We believe that announcing an earlier effective date, say June 4 (i.e. two weeks after the regulatory comment period) might be an effective way to allay this concern, and give more companies the confidence to take advantage of current sales opportunities.

Our conversations with officials of grain companies and the Winnipeg Commodity Exchange indicate that most, if not all, are now ready to start trading in a market choice environment. Given the opportunities that now exist, and the immediate benefits to farmers that would arise, we urge the government to consider having the regulations put into effect prior to August 1, 2007.

Summary

The Wheat Growers commend the federal government for its resolve in ensuring marketing choice for barley will soon be realized. A free market for barley will increase profit opportunities for barley growers and will create a more dynamic investment climate for processing and for research and development within the barley industry.

We have made some recommendations to ensure marketing choice is implemented as smoothly as possible and with as much commercial certainty as possible.

We are excited by the opportunities that lie ahead, and we invite all companies, including the CWB, to share in that excitement.

Sincerely,

Original
signed by:

Cherilyn Jolly-Nagel
President