



## **Modernization of Regulations**

### **Request for Comments from Stakeholders**

Ref: Canada Gazette, Part 1, Vol. 152, No. 30

#### **Comments from Producteurs de grains du Québec**

**Submitted to:**

**Treasury Board Secretariat**

September 2018

## Who are we?

Founded in 1975 and incorporated under the *Professional Syndicates Act*, Producteurs de grains du Québec (PGQ) is composed of 14 grain-producing syndicates. These syndicates, located throughout Quebec, represent more than 11,000 grain producers. PGQ collaborates with many agricultural organizations in Quebec and Canada and is affiliated with the Union des producteurs agricoles (UPA).

## Comments from PGQ

### A- Regulatory requirements and practices

#### - Regulations on plant protection products

Health Canada's Pest Management Regulatory Agency (PMRA) manages approvals and reviews some of them for pesticides and plant protection products in particular. The agricultural and grain production sectors use these products to reduce the impact of pests and weeds and to ensure that crops achieve the expected levels of performance and quality.

The soil and climate reality of grain production in Quebec and Canada is different from that existing in other OECD countries: colder winters, no winter crops, freezing of the soil and many rivers and waterways, etc. Despite these differences, PMRA uses the data from certain OECD countries as a scientific basis for justifying regulatory decisions made in Canada. It must be noted that the biochemical behaviour of products, the number of pesticide applications per year (over a period of approximately six months, since there is no second plant crop in winter), the actual dynamics of non-targeted and sensitive species in waterways, etc., require that we adapt the science based on the local context of pesticide use and to assess risks based on the actual application of these products by recommending a risk assessment threshold after taking action and conducting follow-ups in this context.

In several consultation reports, as part of the review of certain approvals, various values/data used by PMRA are generated through modelling or the integral transposition of results obtained in other countries. However, the data used in reaching scientific conclusions in these countries are based on the production models in these countries, which differ from those in Canada and Quebec. Production techniques, technology and biotechnology, applied doses, weather, etc., these are all factors that have a considerable influence on the values of the data used.

#### - Impact of the regulatory process in its current form

The trend in regulatory decisions based on PMRA conclusions has resulted in a progressive reduction in the number of certain active ingredients used in agricultural production, the grain sector in particular. For example, over the course of 2017, PMRA began a review of neonicotinoids. In conclusion, it is now planning to end the use of insecticides from this family over the near to medium term. However, removing this class of insecticides, which have been

deemed to be a low risk to the environment and human health for certain uses, will force producers to use alternative molecules.

This type of decision places the sector at a disadvantage within the context of increased competition with other countries, especially the US, since products that will be restricted or prohibited in Quebec and Canada will not be subject to the same measures in the US. Given that the market is open and there are no restrictions on trade or the circulation of goods between the two countries, any costs added to Quebec farms creates an advantage for their competitors, especially given that market prices are the same on both sides of the border.

Apart from the negative impact on the sector's competitiveness and its growth, as well as on the profitability of farms, the decisions to regulate certain products are taken considering the availability of new alternative products on the market that apparently pose a lower risk. However, the potential risks of these products after a few years of use have not yet been evaluated.

- **PGQ proposals**

PGQ feels that PMRA decisions regarding the approval and review of plant protection products must take Canadian production realities into account. In order to do so, exhaustive Canadian data from all provinces and actual measurements of the impact on the environment and health are necessary. It is also imperative to estimate the economic risk to the sector and the financial risks to farms. In fact, alternative products carry a higher risk, are less effective and more expensive; otherwise producers would have been using them from the beginning.

In certain cases, producers are required to increase the dose of the alternative product, apply it several times or use more than one product to get the same level of pest management effectiveness. This situation is not sustainable, and it must be included in the economic risk assessment.

- **B- Regulatory harmonization between federal and provincial governments**

In addition to federal regulations, the provincial government can in turn recommend regulatory tightening measures. Pesticide use is a concrete example where the federal government authorizes plant protection products whereas the provincial government imposes restrictions on use and adds new product classes. In fact, the provincial government has decided to impose restrictions on the use of atrazine in the field crops sector and on neonicotinoids. An agronomic justification mechanism and a prescription are now required to purchase and use these plant protection products.

- **Impact**

This restriction, specific to Quebec and more severe than all mechanisms adopted in other Canadian provinces, comes with additional costs associated with the agronomic services required, the implementation of tools and by paperwork for managing the mechanisms for

purchasing and applying pesticides. As a result, Quebec producers find themselves in a production reality that is subject to double regulations.

- **PGQ proposals**

PGQ is asking the federal government to put in place alternative measures for producers who can be penalized by regulation-tightening decisions by their provincial government. These measures would include emergency or regional product approvals, support for procurement from abroad, financial contributions, etc., to maintain Canada-wide equity between producers from various provinces.

- **C- Carbon tax**

To comply with Canada's commitments, as part of its GHG reduction policy, the federal government will implement carbon pricing. It is to be applied across Canada, but it does provide for exemptions to provinces that already have a mechanism in place that acts on GHG, i.e. through direct taxation or using a cap and trade system (carbon market). The federal government's intention is to impose a minimum fee of \$10 per tonne of CO<sub>2</sub> in 2018. This fee will reach \$50 in 2022.

In Quebec, which has adopted a carbon market, the price per tonne of CO<sub>2</sub> sold in Quebec and California in 2018 was \$19.77 and for 2021 emissions, the price per unit will be \$19.57. According to PGQ's calculations, an average Quebec farm will assume an additional annual cost of \$3,800 in 2020 due to carbon pricing, using a reference price of \$18/tonne.

- **Impact**

Since Quebec has implemented a carbon market, grain producers are faced with restrictions (costs) associated with GHG emissions that are not harmonized across the country. In the current economic context, imposing the planned regulatory standards governing carbon taxing and pricing will be a disadvantage to Quebec producers.

There is uneven implementation of GHG reduction measures from one province to another and those in which these measures are applied are subjected to constraints to which the others are not. Moreover, the US, which is the biggest competitor in this sector, and which greatly influences grain prices, is not adopting such measures.

- **PGQ proposal**

PGQ is proposing that this policy be harmonized between the various provinces<sup>1</sup> and that it take into consideration the most severe situation suffered by producers. Otherwise, producers

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<sup>1</sup> In accordance with statement 40-IV in the *Cabinet Directive on Regulatory Management*: <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/cabinet-directive-regulatory-management.html>

subjected to these constraints and whose production costs are increased should be compensated so they could have the same level of income as elsewhere in Canada. An exemption for the agricultural sector could also be considered as a possible solution as part of the pricing process.

#### **D- Regulations on genetically modified organisms**

Current regulations governing biotechnology stipulate that the labelling of genetically modified organisms (GMOs) can be done on a voluntary basis. Authorized GMOs are approved by the federal government. This approval takes into consideration all the risks associated with the production, marketing and use of GMOs.

The Canadian General Standards Board is the body responsible for legislating on the labelling of foods containing one or more proportions of GMOs. Current regulations ensure harmony between the provinces and do not negatively impact interprovincial trade.

The cyclical intentions of the provincial government to implement mandatory labelling for products containing GMOs in a unilateral fashion could result in a labelling system for processed products, with part of the costs being assumed by agricultural producers supplying the grains produced for this purpose.

Moreover, in regard to labelling on food products, the claim pertaining to highlighted ingredients is a voluntary declaration to draw attention or emphasize the presence of an ingredient, a component, a class of ingredients or a flavour in a food using words or illustrations. Under the law, this type of claim must not mislead consumers about the composition or quality of a food. However, certain food labels that mention the absence of ingredients made from GMOs is a means of influencing consumers and misleading them. On certain labels, this information pertaining to an “obvious” characteristic of a food is not justifiable, e.g. when an olive oil states that it is not genetically modified or that it does not contain cholesterol. These claims violate applicable labelling standards.<sup>2</sup>

#### **- Impact**

Mandatory and unilateral GMO labelling by one province will incur costs for the entire GMO-based product value chain, and ultimately producers will be required to assume some of those costs—which will be transferred onto them—for the labelling process at the processing and retail sales levels. Based on a study on the impact of implementing a mandatory labelling system in Quebec, the recurring costs would total more than \$4 M<sup>3</sup> for grain producers (in 2018 dollars). Also, this kind of approach might violate certain interprovincial trade rules.

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<sup>2</sup> National Standard of Canada - Voluntary labelling and advertising of foods that are and are not products of genetic engineering - Appendix B1.2

<sup>3</sup> <https://www.mapaq.gouv.qc.ca/fr/Publications/EtudeOGMMAPAQoct2006.pdf>

As for labelling standards, the use of claims promoting the absence of GMOs in certain foods that do not normally contain any amplifies the negative perception that certain groups of consumers have in regard to products made from GMOs. These products or product ingredients are in fact approved and authorized by the CFIA for marketing and pose no risk to health or the environment.

- **PGQ proposal**

The government must keep the current system in place, i.e. with no unilateral mandatory labelling requirements. The federal government must see to the transparency and compliance of interprovincial trade rules.<sup>4</sup>

Furthermore, as for the enforcement of the *Consumer Packaging and Labelling Act* and claims regarding the absence of GMOs in several instances, increased oversight is required. The federal government must prohibit this type of advertising on the packaging of foods that cannot come from GMOs or contain them.

**E- Seeds Act: CFIA Regulations**

**E-1- Seeds Regulations**

The needs of consumers and food requirements are becoming greater and more varied. Some of these consumer requests end up putting pressure on production, either through quality criteria (e.g. content of toxins) or through the creation of a more lucrative market. This pressure requires the creation and use of a variety of crops, often new ones, that offer the sought-after criteria.

The registration of new crop varieties is governed by the *Seeds Regulations*. The registration process establishes requirements, including the value criterion. This constitutes a guarantee for the sector to produce and use new varieties of seeds to meet market needs and generally enhance crop performance. Approaches that are too flexible in terms of supervising the circulation of new varieties create a regulatory void that encourages the development and sale of seeds that do not have enough years of validation behind them in terms of value and performance.

For examples, there is the regulatory process for the registration of soybean crops, which could create risks over the longer term. In fact, in 2012, the decision was made to abolish the principle of evaluating the value in cultivars and new varieties of soybean for registration purposes in regard to marketing. With this regulatory decision, soybeans now fall under the requirements in Schedule II of the *Seeds Act*. The quality of a variety applying for registration must be equal or superior to “appropriate reference varieties with regard to any single characteristic or combination of characteristics that renders the variety beneficial for a particular use in a specific area of Canada.”

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<sup>4</sup> Same principle as in footnote 1, for the *Cabinet Directive on Regulatory Management*.

Soybean crops are becoming more and more important in various regions of Canada. The genetic adaptation of a crop to new regions where it can be established is a major asset in genetic development, which has come about after many years of research. The expansion of this crop outside historical production regions has intensified thanks to relatively high price levels compared to other grain crops.

- **Impact**

Although this regulatory change has accelerated the availability of new varieties on the market by reducing delays associated with value testing, it is a source of concern due to the many varieties of soybeans being put into circulation. Given that the performance tests for new varieties are not necessarily based on controls recognized by the industry, new registered varieties could be limited to fewer agronomic performance criteria once on the market. Thus, the producer observes the performance level for these new varieties after one or two years of testing. This experience is not advantageous to producers, who can see their yield levels drop or incur additional plant protection costs to remedy for lower levels of resistance in these new varieties.

- **PGQ proposal**

To maintain the development of varieties that perform at increasingly higher levels in soybean production, it is important to consider the concept of value and to reconsider the moving of this crop from Schedule II to Schedule I in the *Seed Regulations*. The potential impact of this deregulation, as seen in the soybean example, demonstrates the need for a certain balance between a process for facilitating registration and a regulatory process preserving the standards of agronomic value and reducing the risks for all levels in this sector.

## **E-2- Registration cancellation regulations**

The CFIA (the agency that registers varieties) can deregister crop varieties based on pre-established criteria. The variety deregistration procedure is triggered at the request of the holder of this variety.

Many varieties are still registered and are in the certain seed catalogues, whereas the use of these varieties (seeds) by grain producers is almost negligible. The level of resistance to pests, yields, grain quality, etc., may be lacking due to market requirements, technological development in production methods, the availability of new varieties, the cost of the inputs required by this variety, etc. These factors lower the interest in these varieties.

- **Impact**

Some seed producers try to maintain these old varieties in their catalogues and can offer them as a solution if there is a shortage of new seeds. They may also promote them more because of the predominance of the seed producer marketing these varieties in a given territory.

- **PGQ proposal**

The modernization of seeds regulations must also recommend the enhancement of varieties and promote new ones stemming from genetic improvement/development work taking into account new market requirements and progress in production technology. Therefore, instead of having the registration cancellation process be dependent on a request by the right holder for the variety, the CFIA could initiate a reminder process for varieties deemed to be of little interest to the market and invite them to deregister these varieties unless there is reasonable grounds for continuing to market them.

- **F- Regulations on migratory birds**

Migratory birds such as the Snow Goose are subject to North American quotas making it possible to qualify the species as over-abundant and to limit the number of catches and the hunting schedule. Migratory bird species such as the Canada Goose are not considered to be over-abundant; there are more limitations on catches and hunting is only permitted in the fall. The hunting of bird species such as the Sandhill Crane is completely prohibited.

- **Impact**

Although certain species are not considered over-abundant, they do cause considerable damage to agriculture. Certain species, such as the Canada Goose, live in Canada, meaning that they spend the winter here.

- **PGQ proposal**

The population of non-threatened species that cause damage to crops must be re-evaluated. The issuing of spring hunting permits for certain birds, in this case the Canada Goose, must be considered as a possible solution in reducing the damage caused by these birds. Special permits to landowners and farmers should be considered to reduce the presence of certain birds and animals that are concentrated in a single region in a territory.

- **G- New Canadian regulations on unmanned aircraft systems**

Advisory Circular (AC) No. 600-002 imposes restrictions on the use of unmanned air vehicles (UAVs) or drones. For the 1 to 25 kg drone category, use is not permitted within less than 76 metres from a vehicle or boat and within less than 1 km from buildings.

Drones are being used more and more in agriculture for monitoring the condition of crops, screening for weeds, etc. Such use in agriculture justifies the cost of purchasing drones, which are becoming more and more affordable.

Agricultural operations often border roads (main and secondary roads, as well as country roads). Fields are also often located near villages and certain dwellings.



**Impact**

Restrictions in terms of distance, for agricultural use, can place producers using a drone in violation of laws and regulations governing aircraft systems. This restriction reduces the technological benefits offered by new technologies for better performance.

**- PGQ proposal**

In order to comply with the regulations while continuing to use new agricultural technologies, there should be a review of the distances to be observed when using drones by producers for agronomic field monitoring purposes. A streamlined certification process for the use of these tools should also be considered.

**H- Conclusion**

PGQ limited itself to mentioning the regulatory aspects that represent, in its view, an opportunity to improve in order to preserve the means available to this sector and to enhance its performance in order to compete, meet the needs of the sector and be more in line with the strategic development targets adopted by both levels of government. However, other elements have not been addressed in this document, but have certainly been looked at by other organizations that represent grain producers in Quebec and Canada.

PGQ did not develop the various impacts using supporting numbers. Measuring socioeconomic and environmental impacts when making decisions regarding regulatory changes is normally a systemic exercise. However, if additional explanations are needed, PGQ is available to provide them.