

# Use of Variety Names

## Working Group - Summary Report



December 16, 2008 - Winnipeg, Manitoba

This Working Group, convened by the National Forum on Seed, brought together about 30 individuals representing seed growers, the seed trade, farm organizations, grain and oilseed processors and handlers, and government departments and agencies. (See list of participants attached as Appendix 1.)

The objectives for the meeting were:

- to clarify the regulatory requirements surrounding the use of variety names in Canada (including prohibitions on the use of variety names);
- to identify and explore any issues that may arise as a result of the current regulatory environment;
- to identify the next steps for moving forward on these issues.

### Scope of the Meeting

There was recognition that there would be many related issues identified. The intention at this meeting was to identify the issues, understand perspectives and discuss where progress could be made.

### Current Requirements - the Seeds Act

Following introductions, Michael Scheffel from the Canadian Food Inspection Agency (CFIA) made a brief presentation on the current requirements under the Seeds Act and addressed questions of clarification.

- He reviewed the history of the use of variety names and highlighted changes that have occurred through the last 40 years.
- The *Seeds Act* has two main mandates:
  - That seed imported, advertised or sold in Canada meets the prescribed standards (mostly mechanical purity and germination) and is properly packaged and labeled.
  - That varieties of seed are registered prior to importing into or advertising or selling in Canada. Seed of a variety sold in Canada must comply with paragraph 3(1) (b) of the *Seeds Act*, which means the variety must be registered if it is a crop kind that is subject to variety registration. Even common seed sold in Canada should be derived from registered varieties for crop kinds subject to variety registration.
- Definition of "variety" in section 2 of the *Seeds Regulations* - "an assemblage of cultivated plants, including hybrids constituted by controlled cross-pollination that a) are distinguished by common morphological, physiological, cytological, chemical or other characteristics and b) retain their distinguishing characteristics when reproduced". Note that this definition is not restricted to physical description.
- "Common" grade name is different than "common" seed - common is both a grade designation and a term that applies to seed that is of uncertain origin or genetic makeup.
- *Seeds Regulations*, Part I, Section 10 state that:
  - (1) No person, shall, unless, the seed is of that variety,
    - (a) Use or allow to be used the variety name on any label or package of seed of any invoice, circular, or advertising related to seed; or

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- (b) Otherwise represent any seed to be of a specified variety.
- (3) No person shall use a variety name...on any label or package of seed of a kind or species set out in the Schedule II or in any invoice, circular or advertising related to seed...unless,
  - (a) ...the seed is graded with a Canada pedigreed grade name...
- The Seeds Regulations specify that, in order for sale by variety name to occur, seed of 79 species (most crop kinds used for food, fuel or fibre) must be certified by an official seed certifying agency. Some non-food, fuel or fibre species that can be sold by variety name without being certified include bentgrasses, Kentucky bluegrass and millets.

Mr. Scheffel also discussed options, ideas, and potential impacts of extending the use of variety names to common seed. The following points were raised during that presentation:

- If use of variety names was extended to include common seed, CFIA legislation and programs would likely require minimal variety purity standards for common seed (e.g. Could retain present 99.5% varietal purity standard for most pedigreed seed and create a minimum such as 95% for non-pedigreed (common) seed - possible prohibition of sale as seed if less than minimum varietal purity or require sale as a blend of varieties). There could also be a possible mandatory use of variety names on all seed or for protected varieties only (failure to label seed as to variety could be made an offence under the Seeds Regulations).
- This option could assist the CFIA in enforcing variety registration requirements for imported seed and domestic sales. It would likely require additional resources/programs for variety verification testing to monitor accuracy of varietal claims in non-pedigreed (common) seed. It would be possible to restrict the importation of common seed of unregistered varieties.
- There are many potential market impacts of extending the use of variety names to common seed including: sellers of common seed would not have benefit or privilege of using official seed tags (as is currently the case), it could assist the holders of Plant Breeders' Rights in enforcing their rights, it could make common seed sellers more accountable for the accuracy of varietal claims, and it could affect the cost of producing and marketing common seed if sellers required to provide assurance that seed is of the variety named.
- This option could include possible restrictions on generations beyond Certified for some or all crop types (for cross pollinated crops it is reasonable to expect that there would have to be restrictions on how many generations past Certified that non-pedigreed seed could be multiplied and sold by variety name).
- As well, this option could include certain labeling requirements - such as "the common seed was 'grown from variety X'" (prior to 1988 when restrictions on advertising were added to the Seeds Regulations, people would advertise that seed was 'grown from' Certified seed of a particular variety). This would likely require additional resources/programs for variety verification testing to monitor accuracy of varietal claims in non-pedigreed seed.

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In closing, Mr. Scheffel noted:

- Introduction of limitations on the use of variety names took place over a 20 year period from 1960-1980 - almost 30 years later the landscape is very different (Plant Breeder's Rights, production of Identity Preserved (IP) crops, elimination of KVD in western Canada). It may be time to explore the implications of a change.
- To facilitate movement on this issue, CFIA suggested an impact assessment study and consensus building with all stakeholders. It was also noted that this issue is currently included in the CFIA Seed Section's Strategic Action Plan (SAP) as an item for further attention in the long-term.

### Questions:

- Working Group participants queried how CFIA ensures common seed is derived from a registered variety. It was clarified that the current regulatory framework ensures that within Canada any varieties developed must be registered for sale in Canada. The only way you can have an unregistered variety is if you have a variety that has been registered and then de-registered or someone has imported seed of an unregistered variety in Canada (they are allowed to do so for limited number of purposes such research, conditioning, production of pedigreed seed, etc). The other exception is for seeding by the importer. Other than wheat in the Canadian Wheat Board area, producers can import seed of an unregistered variety to seed on their own farm but cannot sell seed from that import or its progeny. There should not be any sales of unregistered varieties other than previously registered varieties in Canada. Even though the Seeds Regulations prohibit this, it doesn't mean that it is not happening, but Seeds Regulations prohibit this.

### Other points of clarification included:

- Are unregistered varieties of spring wheat allowed to be imported for seeding by the importer? --Currently the Seeds Regulations prohibit the import of seed of unregistered varieties of wheat and durum into the Canadian Wheat Board Areas for seeding by the importer.
- It was noted that there are occurrences of producers attempting to advertise and sell common seed of varieties they bought as Certified seed of a registered variety. CFIA is following up on advertisements where someone is selling seed of an unregistered variety. It was also noted that the definition of "sale" under the Seeds Act could be quite different than the definition under other acts. Could the current definition be triggered even though there is no transfer of goods? --The definition of sell includes "agree to sell, offer to expose, convey, deliver or agree to exchange." Under this definition, basically any exchange of genetic material that involves some kind of compensation of any sort could be seen to be included in the definition."
- There was a concern around the definition of "importer" under the allowance for seeding by the importer under the current regulations. The current regulations don't specify whether the importer can be an individual or commercial entity. --Normally it is a person but a person includes a corporation.

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- What if somebody formed a co-op and seed was never sold but shared among members?  
--We have that specific case in Manitoba where there is an organization doing just that. Our advice to them was that they should seek another opinion from their lawyers to ensure their activities weren't against the Seeds Regulations. It would take a specific case to be examined by our legal team. If they are getting that seed of an unregistered variety only because they bought membership into the co-op, there has been some kind of exchange. We will be watching and if we suspect anything improper we would be forced to investigate and possibly take action.

## Panel #1 Presentations

To give an overview of other sector specific requirements on the use of variety names, four panelists elaborated on how they use variety names and what issues might affect them.

### **1. The Canadian Grain Commission (CGC)--Daryl Beswitherick, Inspection Specialist:**

- In the Canada Grain Act "class", in respect of grain, means any variety or varieties of grain designated by order of the Commission as a class for the purposes of this Act.
- The first place the CGC uses variety names, is in the grain grading guide. They have an eligibility list of varieties that will be eligible for a certain class of grain and varieties have to be on that list. If a non-registered variety of grain shows up it will fall under other classes. CGC issues these variety designation lists for wheat, barley and flax.
- The CGC develops these variety eligibility lists from the Prairie Grain Development Committee (PGDC) variety registration recommending committees. Any variety recommended and registered by CFIA will be put on the list with the exception of barley where the CGC has its own recommending committee.
- The CGC also uses variety names within their grading systems. For example on a CGC certification for a cargo of lentils, the variety is declared to CGC by a producer. The CGC automatically declares that "varietal purity is not guaranteed" but will use the variety name within their cargo certification grade name.
- Another case where the CGC will use variety names is on the request for shipment by specification. They don't use grade names anymore but will perform a test of varietal purity which will be listed on the contract.

### Questions and Points of Clarification:

- The Canada Grain Act does not specifically define "variety". It only references "class of any variety."
- The Grain Act does not supersede the Seeds Act nor vice versa. The Acts operate independently for different purposes but do also intersect on certain issues.
- To provide assurance to export markets, certificates of varietal purity can be issued with shipments. The certificates simply state to the buyer that the seller is guaranteeing certain specifications.

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### 2. The Canadian Wheat Board (CWB)--Lawrence Klusa

- The CWB uses variety names to promote and sell specific products that have certain characteristics.
- They also use variety names in their Guaranteed Delivery Contracts - can have specific contracts for specific varieties - and in their Identity Preserved (IP) contract program promoting new varieties to describe the grain they are looking for in that contract.
- Other areas the CWB uses variety names include: class designation lists and in talks with farmers when discussing potential grain they could grow.
- The CWB viewpoint is that use of variety names should be restricted only when in relation to seed sales and not for grain marketing and grading purposes.
- The Seeds Act restricts the use of variety names related to seed. When the function is not related to seed, variety names can be used. This is important because the grain industry needs to refer to specific varieties as outlined above.
- Mr. Klusa raised several questions including: When does a variety no longer qualify for that variety name? What does that mean for that material? Can we attach a new name to it or continue to refer to that variety by its original name? How do we identify - through methods that include electrophoresis or fingerprinting.
- The CWB thinks it is in plant breeders' best interests to use variety names in discussing grain because it promotes the variety. Not sure where the CWB would be at if variety naming was restricted for marketing/regulatory purposes. They may have to experiment with genetic markers.

#### Questions:

- There was significant discussion and debate around testing methods in the seed industry and grain industry for varietal purity and varietal identity verification. While different testing methods may be appropriate for different purposes, there is a need for the grain industry and seed industry to meet and clarify terminology and processes (See the Next Steps section of this report).

#### Other points of clarification included:

- Under the Seeds Act, the definition of "variety" does not specifically include DNA, molecular or genetic reference or standard but can include such a reference by interpretation as required.
- In some of the CWB's Identity Preserved (IP) programs, there is no requirement for the use of Certified seed. There was a concern expressed that the lack of a requirement for the use of Certified seed means there is no verification of the varietal identity that these programs are supposed to be preserving. This practice could also be encouraging a contravention of the Seeds Act requirements regarding the use of variety names.

### 3. Crop Insurance--Bill Leask, Canadian Seed Trade Association (CSTA)

- A crop insurance representative was not available for this meeting. Bill Leask of CSTA outlined where some Crop Insurance Corporations use variety names.
- Crop insurance is a jointly funded federal-provincial program with authority granted through federal legislation and administration by the provinces. As a result, the use of variety names and seed requirements varies among provinces. For example, in Quebec, producers are required to demonstrate that they have used Certified seed in order to qualify for crop insurance. In some provinces, producers are required to use variety names to identify crops; while in others coverage eligibility is determined by variety. In all provinces but Quebec, there is no requirement for the use of Certified seed.

#### Questions and Points of Clarification:

- It was noted that this is yet another different purpose for the use of variety names. In this case, it is to minimize the insurer's risk by verifying the planting of varieties with regionally adapted varietal characteristics (e.g., agronomic performance such as yield and disease resistance).
- CFIA posed a question for users of crop insurance systems: Have you ever been told that you would receive reduced payments due to using a variety not adapted to your region? -- In Manitoba certain crops are declined due to genetic reasons for a particular growing area so you're refused by variety. In Saskatchewan they will refuse coverage in a crop kind but not a variety.

### 4. The Canadian Plant Technology Agency (CPTA)--Lorne Hadley, Executive Director

Mr. Hadley highlighted the implications of the use of variety names for Plant Breeders Rights (PBR). He noted:

- CPTA educates producers on the requirements of PBR. CPTA routinely uses a "mystery shopper" approach to enforce PBR.
- Variety-specific markets can be put at risk from misrepresentation - Mr. Hadley gave an example of a Japanese soybean buyer receiving the wrong variety from an exporter who was not the authorized distributor for the PBR-protected variety.
- CPTA would not favour the idea/option of requiring the use of variety names on common seed. The sale of common seed is the smallest part of the market.
- Mr. Hadley suggested that most problems with the misuse of variety names could be addressed through different labeling requirements. Buyers should be able to obtain and understand the expected agronomic performance of the seed they are purchasing.
- Seed vendors should be required to truthfully declare the source from which their seed was grown, and submit upon request a representative sample to any owner of a PBR-protected variety.

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### Questions and Points of Clarification:

There was discussion around the soybean example noted above. Working group participants noted it is up to the buyer to ensure they are getting what they want. Mr. Hadley added that the value of that product was defined by its variety name and the name was used inappropriately and to-day there is no legal recourse for that type of damage. The point was made that this example illustrates yet another purpose for the use of variety names. The CPTA is trying to protect return on investments to variety developers. That is a huge change that has only happened in last decade or so as variety developers have become more concerned about returns on their investment in variety development. This example really shows the disconnect between variety name usage in the seed sector and how variety names are used in the grain sector.

### Panel #2 Presentations

To gain further insight into the requirements and issues around the use of variety names, five industry experts gave their perspectives on the issues affecting them.

#### **1. Plant Breeder--Doug Brown, Agriculture and Agri-Food Canada**

- With the elimination, August 1, 2008, of kernel visual distinguish ability (KVD) requirements for wheat deliveries in the CWB area, our Canadian wheat marketing system is now really based on a variety name. KVD used to help the seller and buyer connect with what they wanted, but now producers have to sign a declaration indicating it is a wheat variety that is eligible for the declared CGC class. All of a sudden variety name becomes more important.
- What do others think of when you hear your name? That's the same as what the buyer expects when they take delivery of a certain variety - they remember what is expected of that variety.
- Varieties will evolve with time due to environmental pressure. What a farmer says is variety X may have changed because after several years of on-farm seed increase, there are opportunities for variety mixtures to occur. The seed may have been taken from the wrong bin or may have been harvested from a field with volunteers (of other varieties grown in previous years). Therefore, the variety name given by a producer to a buyer may not represent what was originally described as the variety by the plant breeder who developed it. Therefore, the variety name may not represent the characteristics that others associate with that variety. The breeder has spent considerable time developing and originally describing a variety that is "true" to the breeder's variety description.
- Variety name is also important to the breeder because the developer's name or brand prefixes such as "AC" or "CDC", are commercially used to designate the variety developer or source. Even without that designation, however, farmers often know who developed the varieties. As plant breeders, we do not wish to be associated with a variety that is not true to our original description of its distinguishing characteristics.
- Possible implication to changing the requirements for the use of variety names: Is it possible that more pedigreed seed will be used? This could have a major influence on the plant breeding industry in Canada. For example, royalties - greater use of pedigreed seed could change the income derived from a variety.

## 2. Seed Industry--Todd Hyra, SeCan

- As members of the seed sector seek to add value to the entire agricultural value chain, the appropriate use of variety names becomes increasingly critical as a means of capturing and returning additional value for all stakeholders in the value chain.
- There are three stages of awareness: 1) I own the rights to the variety, only I should be able to apply the variety name; 2) If others are forced to use variety names on common seed, I may be able to protect my intellectual property (e.g. Plant Breeder's Rights or PBR) more easily; 3) If a variety name can be applied to any seed, what value is left to protect?
- Implications of permitting the use of variety names on common seed are that we would be forcing sellers of non-pedigreed seed to apply variety names to products which have no verification of varietal purity or varietal identity in many cases. This is arguably forcing sellers of common seed into a violation of federal labelling laws governing misleading advertising. In order to avoid this, sellers would need to set up a seed crop certification process for fields to be used as common seed, thus re-inventing the seed pedigreed seed certification process which exists today.
- Canada enjoys a large market share of export markets for Identity Preserved (IP) crops such as specialty field beans and food grade soybeans. A great competitive advantage for Canada in retaining this market share has been our ability to control the use of variety names, and the "one variety, one name" policy in our seed registration and certification systems. If we lose control of the use of these variety names, we could easily lose control of the quality of the output which is dependent on specific varietal characteristics.
- Permitting the use of variety names on common seed could create a two-tiered system where vendors of Certified seed of PBR-protected varieties would be at a competitive disadvantage to individuals selling common seed of unprotected varieties.
- The value of variety names is critical to commercial grain growers. As we strive to deliver more value to Canadian producers, especially in the development of higher value, variety-specific markets. Producers need to have a clear path to differentiate their products in a controlled fashion from the plant breeder through to the final user of the product.
- Canadian agricultural products have earned a reputation for quality around the world. Our pedigreed seed system has been an integral foundation to earning and maintaining this reputation. The seed industry has the responsibility of ensuring that varieties are identified and channeled appropriately to maintain this reputation

## 3. Grower--Don Dewar, Keystone Agricultural Producers

- The importance of crops as non-commodity markets is rising. There are more and more Identity Preserved (IP) crops so we need to use that. As farmers we don't want to see innovation stifled. The feed co-op in Manitoba referred to earlier to-day, and alleged to be importing unregistered varieties, might be on the cusp of breaking the law but is it hurting our system? Their innovation might be beneficial for all.
- Growers are getting tired of agriculture ministers saying they are reducing research dollars. Variety developers need to get a reward for developing varieties. Don't know how we can do that unless we find a way that the variety developer gets something - maybe that means increasing royalties on the end-use product.

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- Producers are concerned about the cost. Everyone would use Certified seed if it didn't cost so much more. New varieties are important and we need them.
- If DNA testing can be used, maybe we require a 95% certified to have a royalty so the developer will get his reward. The important thing about using the variety names on the seed is because we need to know what variety we're growing because sellers want to know what we have.

### Questions:

CFIA raised the point that there was a problem a decade ago of misrepresentation of malting varieties but that was cleaned up and there is testing now. It is not perceived that there is a problem in the malting industry on the commercial side with variety names. The seed issue, on how to address common versus pedigreed for marketing, is different.

A seed grower made the comment that for enough royalties to get back to developers, taking into account previous comments about varietal identity and the disconnect between industry players, and also taking into account that trademarks can't be used for variety names, it appears the grain industry is getting a free ride by using variety names as identifiers and not providing any compensation at all to the variety developers. Don: That is exactly what I was alluding to. We are using the variety names and there is no benefit back to the developers.

### **4. Grain Handler--Trevor Letkeman, Viterra**

- We use variety names to organize deliveries into the correct CGC class. Without the ability to use variety names, our whole grain marketing system, especially for western wheat, is out the window. The most important thing is not to add undue risk to anyone in the system. Any changes, such as that we can't use variety names anymore, automatically signals a potential increased risk and liability especially for producers.
- We have had an ineligible variety protocol since 2003, that prohibits ineligible and unregistered varieties, and we put that in place with no anticipation of the removal of KVD requirements and future deliveries of new varieties that look like each other.
- Without the use of variety names in western grain deliveries, producers and every one in supply chain is put at risk.
- Don't add further liability that the recent removal of KVD requirements hasn't already added.

### **5. Barry Reisner--Seed Grower, Canadian Seed Growers' Association**

- One problem with the current system is that it is confusing to almost everyone and it is inconsistent. When talking about seed or grain, is it one or the other - it can switch in the blink of an eye with how it is used - but yet we treat them differently.
- Most farmers know or think they know what variety they've got. Studies show in some cases they are mistaken. Post-KVD is a perfect time to be talking about this because KVD requirements covered a lot of this. The wheat producer is now being asked to know what his variety is, without the built in protection that KVD provided .

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- Seed growers are concerned that the playing field is not level between all sectors. Seed growers carry various costs to be part of the Certified seed system and common seed is outside the known system and doesn't carry any of those costs.
- The current system of not allowing the use of variety names on common seed is a form of variety protection. It still does carry some weight as an intellectual property protection tool. There is still a thriving industry out there of people trading back and forth seeds and now it is done to save each other money. PBR has a purpose but maybe it is almost as good as we can make it work.
- Allowing variety names on common seed will encourage the use of common seed. Do we want common seed to become a seed of commerce? Does CFIA have the desire or resources to more fully regulate common seed? If not, then don't go there.

## Questions:

The question was asked: "Why isn't the seed sector focusing more on the insurance side of Certified seed? In the post-KVD world, if you get tagged with an ineligible variety it could cost millions of dollars of liability. It's expensive for a producer to buy Certified seed but, except for new varieties, certified wheat is not always seen to have much of an advantage except for liability. It helps you justify the price spread for Certified seed. We should see some increase of Certified seed sales as we see more non-KVD varieties come to market. Barry: You are right but someone who does not buy Certified seed transfers that liability to someone else. As seed growers, we accept liability that when we sell a product it is what we say it is. So the farmers then transfer that liability to me.

## Other questions included:

When does a variety not become that name of variety that it has been named in the past? Barry: If there is value in using that variety name, it should be worth something. You should be paying something but right now the only people paying are my customers and I'm the only one collecting from them and it's only 20% of the western seed wheat market which isn't much. This hurts Certified seed sales - Certified seed is asked to carry all of variety development which is a tough load.

CFIA raised the question that perhaps requiring variety names on common seed could actually lead to a reduction of sale of common seed because people are suddenly required to produce a document with the variety name on that seed and yet don't have the guarantees in place. Is there any validity that allowing variety names will actually increase Certified seed and decrease the sale of common seed? Barry: My comments simply on cachet of having a name - that alone would increase common seed use.

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### Funding Innovation: Investment in R&D

- Bill Leask made a short presentation on the recent Investment Survey by the Canadian Seed Trade Association (CSTA). In 2007, \$165 million was invested in seed related research and development, broken into the following areas:

Private sector (39%)	Provinces (6%)
AAFC A base (21%)	Checkoffs (4%)
NSERC (18%)	Other (1%)
Other Federal (11%)	

- Annual research investment by crop kind: The numbers for each crop have gone up since 1987 but they are expected to drop for cereals and forages..

### **Discussion Groups:**

Participants were divided into five groups to assess the benefits and issues of the current requirements under the Seeds Act and to identify how to move forward from here. Key points reported, were as follows:

#### Benefits of the Current Regulations:

- The current system of buying and selling seed by variety name, when tied to the present pedigreed seed requirement, provides both buyers and sellers with an officially recognized (CFIA, CSGA, CSI), third-party verified assurance of truth in labeling. This is a cost-effective and valuable risk management tool (especially for western wheat post-KVD).
- The current system provides a process for risk management across the value chain. At issue is whether this is adequately recognized by some links in the chain (CWB, some grain handlers, crop insurance).
- Grouping varieties by Canadian Grain Commission (CGC) class eligibility serves a fit for purpose function for grain handlers.
- The current system protects variety developers' reputations when the variety name is tied to the present pedigreed seed requirement and seed certification.
- The current system delivers high quality product to end users - the system works.
- Forage seed sales - allows Certified seed market to exist and provides intellectual property protection for forage seed sales.
- In the current system, there seems to be little advertising now of common seed, perhaps because it can't be done by variety name.
- Supporting continued use of variety names on grain may advertise the value/demand/use of a specific variety which may then promote Certified seed sales of that variety.
- Planting Certified seed with a variety name can reduce a producer's uncertainty about delivering an ineligibile wheat variety in a post-KVD world.

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- The current seed certification system is recognized around the world and is linked with international trade in seed and the use of variety names in other countries.
- The current system provides an opportunity for producers to obtain market-specific traits of a variety so that trait's value can be captured for Identity Preserved (IP) or niche markets for additional value.
- Common seed is available in the current system for producers who are not concerned about third party assurance of varietal identity or purity
- Common seed is still available within the current system and producers still have the opportunity to plant farm-saved seed.
- The variety naming process serves other purposes that create good relations in the industry. For example, it allows us to recognize outstanding performance of specific variety developers, processors or producers.

## Comments:

In the course of discussing benefits from the current system, Working Group members raised the following points:

- If current restrictions result in more pedigreed seed than would otherwise be the case, the additional production generates the resources to have a national world-class seed certification system. If you didn't have current restrictions, we might have a reduction of pedigreed seed being used and an even smaller base that would have to pay for certification.
- Current system protects the variety developer's reputation and facilitates the Canadian Grain Commission (CGC) grain grading class structure as it relates to fit for purpose. This supports risk management options in terms of meeting a range of different end use functions required for different markets.
- CGC suggested that we have two different certification systems, one for seed and one for grain. We are seeing an evolution of the grain certification system because of the loss of KVD requirements. The CGC is moving towards a much more process-based system because the visual tools (KVD) will no longer be available to distinguish wheat varieties. The variety verification testing that CGC does verifies and audits their process requirements and develops confidence that the variety eligibility declaration process is working effectively for CGC classes.

## Issues with the Current Regulations:

1. There is a disconnect between regulatory requirements.
  - For example, seed can't be sold by variety name unless it is pedigreed (certified) but crop insurance requires that the variety of seed be named and CGC eligibility lists are also based on the use of variety names.
  - Use of variety names in the grain sector legitimizes, from commercial grain grower's perspective, the use of variety names on non-pedigreed or common seed.

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2. When common seed is sold, there is no way to capture a return on investment for the developers.
  - This means seedgrowers and buyers of Certified seed are paying more than their fair share in the investment of new varieties.
  - Return on investment (ROI) on cereal breeding is often not sufficient to justify investment.
3. CFIA resources are inadequate to monitor seed imports or marketplace.
  - This could lead to the import of common seed without enough control over unregistered varieties or new noxious weeds getting into Canada.
4. Improper use of variety names
  - The use of the wrong variety name, the intentional misuse of variety names, or errors in the naming of common seed could mislead producers leading to reduced crop performance, inaccurate delivery declarations for western wheat and damage to the reputation of developers or varieties (misrepresentation)
5. Variety Testing
  - There was a lengthy discussion on variety testing methods and the need to clarify differences between the grain and seed sectors (especially among regulators) on varietal purity versus varietal identity definitions, interpretations and the appropriate verification testing measures used by each sector.

### Next Steps:

There was no real desire for a regulatory change expressed but the current system is confusing to many so more clarification is required. The next steps coming out of this meeting include:

1. Draft session report and send to all Working Group participants in the New Year. Final report to be completed and available in mid-January.
2. The CFIA will develop a communication document/tool for stakeholders clarifying the current system by the end of March, 2009.
3. CFIA, CGC, CSGA and CSTA to meet later in 2009/10 to:
  - discuss testing methods, certification systems, etc.
  - will lead to producer education
4. Take the discussions around Return on Investment back to the National Forum on Seed general meeting in March 2009.

There does not appear to be a need for this Working Group to meet again at this point.

On behalf of CFIA, Cindy Pearson thanked Working Group participants for sharing their views and said it is very useful to have the documents from this kind of meeting in writing because it puts it higher on CFIA's workplan agenda.