

Guide for Public Participation in Government Consultations on Changes to Seed Variety Registration Regulation

A Guide to the
“Proposal to Facilitate the Modernization of the Seed Regulatory Framework”
Consultation Workbook from the Canadian Food Inspection Agency.

Have Your Say!
Protect Democracy,
Farmer Livelihoods and the Right of Farmers to Save Seed

Deadline for Public Input: **February 28, 2007**

Government Consultation document:

www.inspection.gc.ca/english/plaveg/variet/revetu/consule.pdf

Government Regulatory proposal:

www.inspection.gc.ca/english/plaveg/variet/revetu/prepo06e.shtml

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Purpose of this Guide:

On October 4, 2006, the Canadian Food Inspection Agency (CFIA) posted a notice on its website (www.inspection.gc.ca) that it had begun a 60-day consultation period on its “Proposal to Facilitate the Modernization of the Seed Regulatory Framework.” The consultation period was due to end Dec. 2 but was extended to February 28 due, at least in part, to public protest over the consultation process and the proposals themselves.

The CFIA also announced new consultation workshops in 6 cities. The schedule is as follows:

Calgary January 30, 2007
Saskatoon February 07, 2007
Moncton February 14, 2007
Guelph February 27, 2007
Montreal March 07, 2007
National Ottawa
March 27 & March 28 (a.m. only), 2007

“The objectives of these workshops are to improve understanding of the current Seed Program and to actively engage stakeholders in the Seed Program review. In addition, the workshop will provide an opportunity for CFIA to present and receive feedback on the Proposal to Facilitate the Modernization of the Seed Regulatory Framework. The Seed Program Modernization Initiative builds on recent government- and industry-led consultations.” - Canadian Food Inspection Agency

If you are interested in participating in a “Workshop on Seed Program Modernization”, please register via Charlene Mader by telephone at 1-866-475-2565, by fax at (613) 228-4552 or by e-mail via modernisation@inspection.gc.ca. You do not have to pre-register in order to attend.

This guide is designed to help people understand the proposals, the consultation and how to most effectively be heard inside the process, particularly since the CFIA is asking the public to use a specific consultation “workbook” to send in views.

We have taken the text of the consultation workbook and placed our analysis and interpretation along side of it.

The Government Consultation Workbook:

The consultation is constrained by the workbook. The CFIA will only consider feedback that follows the structure of the workbook. The workbook is posted on the internet to be filled out electronically but you can also print up a copy and fax or mail it to the CFIA. You can request a copy of the workbook if you are not on the internet.

There are three ways to fill out the consultation workbook:

- 1) You can click through each page on the internet until you reach the end and the space where you can paste in your comments.
- 2) You can quickly read the workbook in full and review our guide and answer each comment box.
- 3) You can send in a position paper on behalf of your organization.
- 4)

The following questions are repeated in each section of the workbook:

- Rank “your degree of support” for the proposal
- Explain the rationale for your rating
- Describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal

The above questions show how the CFIA already assumes a general “consensus” on the proposals and that you merely want to *improve* the proposal and its implementation. Our suggestion however is that you give this process a try and critically answer the questions in the workbook.

Introduction to the Proposals

The CFIA’s latest proposal to “modernize” Canada’s seed regulations focus on changes to our Variety Registration System – the system that permits new crop varieties to be commercially introduced. At present, 30 crops are subject to Variety Registration (for example, canola and wheat are but hybrid corn and vegetables are not). The seed registration system is designed to protect farmers and the food system by assuring that new varieties have been assessed for their agronomic performance or “merit” and potential adverse impacts on food production and to a lesser extent trade.

The CFIA’s proposals would simplify and speed up the commercial release of new crop varieties (such as genetically modified wheat and 'pharma' crops) through new processes for registering seed varieties. Under the proposed changes, new varieties could be registered under either “Tier I” (which is similar to the existing process), a new “Tier II”, or a modified and expanded form of “contract registration”. Those crops presently subject to Variety Registration could be moved from one process or “Tier” to another, changing the requirements for their assessment.

“Tier I” is the status quo, but with the merit criteria watered-down. Merit requirement is the only mechanism that assures farmers that new varieties offer them some improvement over previous varieties.

The creation of “Tier II” allows for a simple listing of varieties, without requiring any assessment of merit or testing the seed’s agronomic performance against benchmark varieties. Tier II would not require independent testing. The creation of this new registration option that does not require merit assessment invites corporations to press for crop registration currently under what will become “Tier I” to be moved to this much less rigorous category. Tier II facilitates marketing, not real innovation.

The third proposed variety registration option provides for a modified and expanded version of “contract registration” which would allow companies to quickly commercialize varieties that could not be registered under the current system because they would harm the quality of our crops and damage Canada’s markets if they were to get mixed into the existing seed supply. Contract variety registration is a mirror image of the “Identity Preserved” (IP) system of crop production. More and more of the seed in Canada is being sold through IP contracts which enable companies to set the price they will pay for the crop in advance, and force farmers to sign away their right to save seed from the crop. It has resulted in excessively high prices for the seed a farmer needs. IP is designed to ensure the grower delivers a specified crop under strict control from the company involved. In contrast, contract variety registration is supposed to ensure surrounding crops are not contaminated by the contract-registered variety. Contract registration if widely used would nevertheless help to reinforce a move to crop production where a farmer loses all autonomy in relation to seed and essentially places farmers in a dependency relationship on seed suppliers that will border on feudalism.

The CFIA's proposal would allow companies to register seed under a contract which stipulates the seller, the grower and the buyer, and the conditions under which the seed would be grown. The entire crop would have to be delivered to the buyer, and none could remain with the grower in order to protect other crops from contamination by escaped seed. Contract registration would be used for controlling seed that otherwise would not be allowed in Canada due to the hazards posed to Canadian agriculture. An obvious rationale for contract variety registration would be to make it easier for companies to bring their dangerous genetic experiments into farmers' fields and the food system. The use of legal contracts to contain biological organisms is not effective, even if all parties do their best to comply with the terms of the contract.

The whole question of liability is unresolved however. If (when) contract-registered seed contaminates other crops, resulting in loss of markets or health issues, who will be responsible? Under this regulatory proposal, the CFIA and the seed industry are set to impose that risk on farmers and consumers, who will bear the costs of the inevitable failures of contract-registration systems.

Who decides whether an entire Crop Kind should be moved to Tier I, Tier II or Contract Registration? One would expect that this key regulatory decision would be made by publicly accountable civil servants. However, the CFIA proposes turning over these decisions to "Crop Specific Consultation Groups" (CSCGs). The CFIA has suggested that CSCGs be existing seed industry and commodity lobby groups, funded by the private sector. This off-loading of public responsibility onto representatives of the very corporations that the CFIA is supposed to regulate is unacceptable in a democracy.

The CFIA's public communications promote the idea that the reforms respond to a larger push for a more diversified agricultural system but this is not what the proposals would achieve. It is true that the variety registration system has actually been part of an old policy that has facilitated the industrialisation of Canadian agriculture and its orientation towards export agriculture. For example, the Distinguishable, Uniform and Stable (DUS) criteria of the variety registration system can block the use and development of seeds that are more suitable to ecological agricultural practices. However, changes to the variety registration system, if they are to have any impact on the direction of Canadian agriculture, cannot occur in isolation. If the CFIA is genuinely interested in "sustainability" and "organic production" then reforms to the variety registration system must be part of a larger, genuine effort to reorient Canadian agriculture towards local markets, social and economic justice, strong rural communities, nutrition, environmental sustainability, etc.

This is absolutely not what the CFIA is offering. Yes, the CFIA's proposal would open the seed system up to more varieties, but only to varieties that will further industrialise the food system (such as genetically engineered crops) and that will take away some of the only protections that farmers and the public have against profiteering by corporations that increasingly control the food system.

The seed registration system has also served Canada's export markets well, as it has been a fundamental building block in developing Canada's international reputation for quality and reliability. The existing variety registration system, for example, has helped block the introduction of genetically engineered wheat, which if introduced,

would have destroyed valuable export markets and devastated Canadian organic farmers and conventional farmers alike.

The existing seed variety registration regulations have also forced the industry to live up to a certain standard of quality. Under the CFIA's proposals, the merit criteria (agronomic performance and crop quality) which protect farmers and the food system are seriously eroded, while the DUS criteria (standardisation based on a criteria for large-scale monoculture production) remains untouched. This proposal, for instance, does absolutely nothing to open the seed system to varieties suited to organic production, which contain more diversity than what is allowed under DUS. It is not true to suggest that the proposed "seed modernization" changes will help organic and heritage growers.

With these proposed changes, the big seed companies get it both ways. They keep the regulations that 1) shut out small-scale seed initiatives catered to local, ecological farming systems and 2) facilitate the commercialisation of their industrial, un-improved varieties (especially genetically engineered varieties) through a system stripped of public accountability that is designed to increase market control for seed corporations, eliminate transparency, and offload the inevitable costs of contamination and diminished crop and food quality onto the public. You'd think that the seed companies had written the proposal. Oh wait, they did!

The proposed changes to seed variety registration regulations are unacceptable. They cannot be viewed in isolation. The broader context is one where varieties in Canada are relatively easily deregistered. This means that the old varieties that can be saved and reused by farmers are likely to disappear. They will be replaced by varieties which have expensive restrictions built into them, forcing farmers to buy seed more often at extremely high prices. The CFIA must withdraw the current proposal. Any future changes to the seed variety registration system must come out of a legitimate, meaningful consultation process involving the broad spectrum of citizens – from farmers to gardeners, consumers to millers - concerned about, and affected by, Canadian seed regulations. The CFIA as our public regulator needs to insure that the interests of the farmers and ordinary citizens are looked after. The original intent of the Seeds Act was to do just that. It should not be perverted into a vehicle for commercial interests to make as much as they can as quickly as they can.

The CFIA's document, "Proposal to Facilitate the Modernization of the Seed Regulatory Framework" is available at:
www.inspection.gc.ca/english/plaveg/variet/revetu/consule.shtml

If are interested in attending the consultations and would like further information and support please contact Lucy Sharratt at the Canadian Biotechnology Action Network info@cban.ca 613 234 1273

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Text Directly From the CFIA Workbook:	Our Analysis:
<p>INSIDE THE CONSULTATION WORKBOOK</p> <p>PART 1 – QUESTIONS ABOUT YOU</p>	
	<p>In this section, the CFIA asks you (Questions 1-6) to provide your name and other information for them to understand who you are as a “stakeholder” in the consultation. The CFIA asks you to do this to assist in transparency of results. Remember, all Canadians have a stake in the seed system.</p>
<p>PART 2 — Seed Consultative Framework</p> <p>Background</p>	
<p>The ability of the CFIA to maintain an efficient, effective and responsive seed regulatory framework is largely dependant on the mechanisms available to build stakeholder awareness and facilitate consensus on seed and seed related issues.</p>	<p>Who defines efficient, effective and responsive and with what criteria? Who is recognized as a stakeholder? This term is used repeatedly without definition. Farmers and the public are relegated to mere consumers of seed. Their broader interests in food, social and economic justice in the food system are not recognized within the context of seed system stakeholders as perceived by the CFIA.</p> <p>Throughout the document consensus is referred to as both a necessity and a reality but, in this process, there is no space or recognition given to any difference of opinion or principle, i.e., there is no democratic process for achieving consensus.</p>
<p>Recent experience with a number of stakeholder-led consultation and consensus building initiatives, most notably the work of the National Forum on Seed, has demonstrated the value and reinforced the importance of a strong consultative framework to the functioning of the CFIA Seed Program as well as to seed policy development in general.</p> <p>As a result of a series of National Forum on Seed led working group sessions on variety registration, the CFIA has been able to increase stakeholder awareness of the variety registration system and its role in the broader seed regulatory framework. More importantly, in just over a year, these sessions achieved what previous CFIA led consultations had been unable to achieve in almost five years of consultation: consensus across a wide range of regional and crop based stakeholder interests on the</p>	<p>The CFIA is wrong. Consensus was not achieved in their consultation process. The CFIA consulted mostly like-minded groups and companies in the seed sector and the dissenting views present, such as those presented by the National Farmers Union, were ignored. Similarly, the National Forum on Seed is composed almost entirely of representatives from the seed industry. Its focus is on supporting the seed industry. But seed industry interests most often conflict with the larger interests that Canadians have: Our seed system needs to support a national food system, based on such pillars as nutrition, social and economic justice and environmental sustainability.</p> <p>The process gave precedence to groups that already agree with each other because of their commercial and/or ideological interests. Regional</p>

<p>key elements of a variety registration change proposal.</p>	<p>and crop based stakeholder interests mentioned would include groups such as the Canola Council of Canada and CropLife Canada that have long identified with corporate interests to the detriment of farm and public interests.</p> <p>This approach also, and very significantly, excludes or precludes an ecological perspective that would favour real seed and crop diversity and a holistic, rather than industrial, approach to agriculture.</p>
<p>The National Forum on Seed experience highlighted the weaknesses of the consultative component of the CFIA’s seed policy, program and regulatory change model and gave rise to an assessment of options to strengthen the Seed Program consultative framework. This assessment highlighted the value of a forum for ongoing permanent dialogue at a national level among the entire range of crop type and regional perspectives that make up the Canadian seed sector and its customers. However, it also concluded that many seed program issues are region- and crop-type specific and therefore require a region/crop specific focus to resolve.</p>	<p>Note the frequency with which the word “assessment” appears – meaning no testing, no hard ‘evidence’, no critical studies, just an opinion. Our input to the process must highlight the weaknesses and dangers of such a limited concept of stakeholder.</p> <p>One might ask, as with ‘stakeholders’, who the Canadian seed sector is in their eyes and who its customers are? Do they mean farmers?</p>
<p>Regulatory Proposal</p> <p>In this light, the CFIA proposes to introduce provisions that would allow it to recognize as part of the official Seed Program Consultative Framework:</p> <ol style="list-style-type: none"> 1) a national stakeholder forum; and 2) crop-specific consultative groups <p>The national stakeholder forum and crop-specific consultative groups would meet both annually at the same time and place and in separate sessions as required.</p> <p>1. National Stakeholder Forum</p> <p>To enhance stakeholder engagement, improve understanding and facilitate stakeholder-to-stakeholder and stakeholder-to-government discussion and consensus building on national, cross-commodity seed policy and regulatory issues, a national stakeholder-led forum with a long-term governance structure would be recognized by the CFIA to provide expert guidance to the Seed Program.</p>	<p>The CFIA is proposing a semi-permanent consultation body and has already started to test this with the “National Forum on Seed”, a group of organizations in the seed sector.</p> <p>Who do you think are the stakeholders when it comes to seed? Some that come to mind are: farmers, consumers, nutritionists, parents, gardeners, ecologists, ... Is there a place for a broad-based assembly of citizens to provide guidance to the CFIA on seed issues? Who should it include? Who should cover the costs of participating?</p>
<p>Question 7: Please rate your degree of support for the CFIA Proposal to introduce provisions that would allow it to recognize a National Stakeholder Forum as part of the official CFIA Seed Program Consultative Framework:</p> <p>1 Do not support 2 3 4 5 6 strongly support or I Don’t Know</p> <p>Question 8: Please explain the rationale for the rating provided.</p>	

Question 9: Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal.

2. Crop Specific Consultative Groups

The CFIA would, as required, work with stakeholders to establish Crop Specific Consultative Groups (CSCGs). These Groups would be recognized by the CFIA to facilitate dialogue, analysis, options identification and consensus building within specific crop sectors and regions on seed policy issues having regulatory implications.

It is anticipated that where the need for a Crop Specific Consultative Group is established, existing organizations and processes would be drawn upon to the extent practical to help minimize costs and maximize operational efficiencies.

Decisions about whether an entire crop kind would be placed under Tier 1, Tier 2 or Contract Registration will be based upon recommendations made by a "Crop Specific Consultation Group" (CSCG). But the CSCGs are expected to be dominated by private seed industry interests.

This proposal comes as Canadians are showing increasing interest in seed regulations, sparked largely by concerns with genetically modified crops. The CFIA should be opening seed regulations up to greater and wider public participation, not closing the door.

The CFIA's proposes that the CSCGs pay their own way. This means those who can afford to pay, will make the regulatory decisions.

Liability – the CFIA and bodies identified as potential CSCGs disagree about liability. Who will have liability if a regulatory decision made on the recommendation of a CSCG results in market losses or health problems? The CFIA or the CSCG members? Or will farmers and the Canadian public be left to deal with the problems? This is a very salient problem, and an issue that needs to be raised in these consultations.

Question 10: Please rate your degree of support for the CFIA Proposal to introduce provisions that would allow it to recognize Crop Specific Consultative Groups as part of the official CFIA Seed Program Consultative Framework:

1 Do not support 2 3 4 5 6 strongly support or I Don't Know

Question 11: Please explain the rationale for the rating provided.

Question 12: Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal.

PART 3 — A More Flexible Variety Registration System

Background

With some exceptions, most crop kinds are subject to variety registration*.

[List of varieties subject to registration]

- * Alfalfa
- * Barley
- * Beans, Field

Variety registration is required before many crops are commercialized (not all crops require this registration). The current system ensures that a new variety has "merit" in order to be registered. For example, varieties must undergo one, two or three years of independent co-op field trials to

<ul style="list-style-type: none"> * Bird's-foot Trefoil * Bromegrass * Buckwheat * Canarygrass * Canola/Rapeseed * Clover * Faba Beans * Fescue * Flax * Lentil * Lupin, Field * Mustard * Oats * Orchardgrass * Peas, Field * Potato * Rye * Ryegrass * Safflower * Soybean * Sunflower * Timothy * Tobacco, Flue-cured * Triticale * Wheat * Wheatgrass * Wildrye <p>From http://www.inspection.gc.ca/english/plaveg/variety/egvare.shtml</p> <p>Variety registration is designed to ensure that:</p> <ul style="list-style-type: none"> • health and safety requirements are met prior to commercialization of the variety; • information (reference samples and variety descriptions) is available to regulators to monitor seed of varieties of agricultural field crops in the marketplace to prevent fraud; and • the sale of varieties that perform below a minimum standard is prevented. 	<p>provide data on the agronomic performance of a new variety. It cannot be registered unless the new variety is equal to or better than existing varieties in terms of disease resistance and other performance measures. It prevents seed from being introduced that would make disease problems worse, for example. The merit requirement provides independent third-party information for farmers. This system has also provided an important quality control function to ensure Canada's crops will meet expectations in the export market. Without dependable information to base decisions on, how would farmers benefit from the commercialization of new varieties?</p> <p>The Variety Registration System was originally established because farmers wanted to prevent seed sellers from selling them poor quality seed. But the Variety Registration System has developed alongside the industrialization of agriculture. Equipment and markets may have changed over time, but the need to prevent fraud and economic exploitation by powerful interests that seek to control farmers' access to seed remains. The current Variety Registration System includes some built-in safeguards for farmers and the general public.</p> <p>The CFIA's definition of health and safety is nowhere stated. However health and safety are dealt with through CFIA and Health Canada product assessments that are entirely different processes.</p>
<p>Variety registration facilitates seed certification and the international trade in seed as well as the tracking and tracing of a variety in commercial channels. An early indication of the performance of the variety is obtained from data gathered in support of the merit assessment component of variety registration. Once a variety is registered and in commercial production, this information is complemented by ongoing, third party performance trials and information from seed companies.</p> <p>Variety registration in Canada is currently based on two general requirements:</p>	

<p>1 Official recognition that a variety is new, distinguishable, uniform and stable (DUS) is confirmed by the CFIA in a review of an application for registration. The CFIA’s DUS assessment ensures that the candidate variety has not been previously registered under another name and that it fulfills domestic and international seed certification requirements.</p> <p>2 A variety’s merit for production in Canada is determined by a recommending committee recognized by the Minister. The current merit component of registration verifies that the variety performs as well as or better than standard reference varieties with respect to agronomic (e.g., yield, days to maturity, lodging), disease and/or end-use quality (e.g., milling, malting, oil profiles) characteristics.</p> <p>*Corn is exempt from registration, but is subject to regulatory oversight that includes mandatory use of pedigreed seed and the provision of information similar to what is required for evaluation of distinctness, uniformity and stability for registration. Foodgrade soybeans have been exempt from registration since 1997 in order to allow for the required flexibility to adjust to the primarily foreign market for the crop.</p> <p>Consultations to date have identified three limitations of the current variety registration framework.</p> <ul style="list-style-type: none"> • First, merit assessments consume time and resources that might otherwise be productively dedicated elsewhere. • Second, the mandatory merit requirement may prevent the commercialization of value-added niche-market varieties that do not meet minimum standard performance criteria. • Third, the current system does not provide a practical alternative to full exemption from variety registration for those crop types sensitive to the regulatory burden associated with a merit assessment. 	<p>The use of the acronym DUS is worth noting. While this is defined by the CFIA slightly differently than how it is commonly used in Plant Breeders Rights legislation, it has become the basis of identification of variety for the purposes of Plant Breeders rights. The Plant Breeders Rights legislation has progressively been designed to prevent farmers from saving, reusing and exchanging seed over time. The harmonization of criteria of registration with Plant Breeders Rights legislation should make farmers particularly nervous.</p> <p>It is important to note the key phrases and words that the CFIA uses to justify an end to merit assessment of varieties: “assessments consume time and resources”; “may prevent the commercialization”; “regulatory burden.” These are classic corporate concerns that are raised to contest any regulation that benefits farmers or consumers at a cost to industry, however slight. Let’s look closely at the regulatory proposal to see how seed companies would benefit from the proposals and what the impact could be for farmers.</p>
<p>Regulatory Proposal</p> <p>The CFIA is proposing a new two-tiered registration framework that would introduce additional registration options where the pre-registration performance assessment requirements could be reduced or completely removed. The framework also includes a transparent,</p>	<p>In introducing new tiers of registration, the CFIA is opening up the possibility that crops registered by a variety registration assessment process could to be moved from one tier to another – this would have huge implications for which varieties, and how many varieties, are approved.</p>

<p>predictable process for making changes to the tier placement of crops to facilitate responsiveness of the system to evolving crop sector challenges.</p> <p>Tiered Registration System</p> <p>The CFIA is proposing to amend the variety registration system to include the following two tiers of registration:</p> <p>1. Tier I: Performance Assessment 2. Tier II: Listing</p> <p>Crops not subject to either tier of registration would be exempt from registration but would continue to be subject to all other seed regulatory requirements, as is currently the case. Any applicable health and safety requirements will continue to be required for the registration of crop varieties in both tiers.</p> <p>Once the regulatory change is in place, the process for changing crop tier placement could move forward. Crop Specific Consultative Groups would facilitate discussion within the complete value chain regarding tier changes. In the meantime, the current level of registration (Tier I with merit or exemption) will be the initial placement for crops in the new tiered registration system.</p>	
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<p>Tier I: Performance Assessment</p> <p>Crop varieties subject to this tier of registration would continue to require assessments of both DUS and performance prior to registration. Whereas the current registration system requires the performance of varieties to be evaluated against established minimum merit criteria for agronomic, disease and/or quality characteristics, the proposed new model would allow increased flexibility to vary assessment parameters to suit the evolving needs of each crop kind community, including registration assessment options to require assessment of the performance of varieties with no minimum merit requirements. Registration options in this tier would range from the status quo to requiring only performance assessment of a characteristic (e.g., agronomic) with no merit criteria applied.</p>	<p>Tier 1 would permit registration without merit assessment. Tier 1 would allow performance assessment without evaluation of performance against minimum merit criteria for agronomic, disease and/or quality characteristics. The CFIA calls this "flexibility to vary assessment parameters."</p>
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<p>Examples of Some Tier I Registration Options for Crop Varieties (There are 26 options associated with this tier.)</p>			
<p>Crop Kind</p>	<p>Performance Testing Requirements for Registration</p>		
	<p>AGRONOMIC TRAITS</p>	<p>QUALITY TRAITS</p>	<p>DISEASE TRAITS</p>
<p>Crop A</p>	<p>YES + merit criteria</p>	<p>YES + merit criteria</p>	<p>YES + merit criteria</p>
<p>Crop B</p>	<p>YES</p>	<p>YES + merit criteria</p>	<p>No testing required</p>
<p>Crop C</p>	<p>YES</p>	<p>No testing required</p>	<p>No testing required</p>

<p>Requiring performance assessments without merit criteria would ensure availability of third party verified performance information at the time of registration. This would allow registration to occur much earlier in the seed planning cycle (in October/November instead of January-April) because the merit evaluation and recommendation is no longer required.</p> <p>Recommending committees would continue to be officially recognized as expert bodies that oversee performance testing, formulate procedures, and recommend varieties for crops in this tier. The CFIA will be working with recommending committees to review and refocus them specifically on the recommendation process and also increase the efficiency, effectiveness and transparency of the recommendation process. To aid in this transition, a revised guidance document for the operation of the recommending committees will be developed.</p>	
<p>Tier II: Listing</p> <p>Crop varieties subject to this tier of registration will require, at minimum, an assessment of the DUS of varieties for registration. This assessment will be conducted based on information supplied by the applicant including how the variety was developed and appropriate contact information; a reference seed sample; and a description of the variety that would provide the required information for crop and seed certification.</p>	<p>Tier II:</p> <p>Listing, just as the name suggests, allows registration just by listing the description of the variety and establishing that it is distinguishable, uniform and stable. The information will be provided by the seller of the seed – not by an independent third party. This is a conflict of interests.</p>
<p>Question 13: Please rate your degree of support for the changes proposed to the current registration model (Tier I): 1 Do not support 2 3 4 5 6 strongly support or I Don't Know</p> <p>Question 14: Please explain the rationale for the rating provided.</p> <p>Question 15: Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal.</p> <p>Tier II: Listing Crop varieties subject to this tier of registration will require, at minimum, an assessment of the DUS of varieties for registration. This assessment will be conducted based on information supplied by the applicant including how the variety was developed and appropriate contact information; a reference seed sample; and a description of the variety that would provide the required information for crop and seed certification.</p> <p>Question 16: Please rate your degree of support for the establishment of a variety listing option (Tier II):</p> <p>1 Do not support 2 3 4 5 6 strongly support or I Don't Know</p> <p>Question 17: Please explain the rationale for the rating provided.</p> <p>Question 18: Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal.</p>	

<p>PART 4 — Contract Registration Background</p>	
<p>Contract registration is a type of variety registration that imposes segregation requirements on seed of certain varieties that do not meet merit and other related requirements (e.g., kernel visual distinguishability). There are currently nine contract registered varieties.</p> <p>Contract registration requires implementing a documented quality control system that may include isolation distances between fields and post-harvest land use restrictions. Contract registrants are monitored for compliance with the terms and conditions of registration through CFIA-conducted audits.</p>	<p>What indication is there that the CFIA would actually demand documentation beyond what the appellant submits or that the CFIA would actually monitor and audit? One of the concerns expressed by the CFIA and even by the stakeholders in the “National Forum on Seed”, is the capacity of the CFIA to carry out its regulatory duties. If the resources are not available for effective audits, there is little to no accountability. The contracts would be in effect, unenforceable.</p>
<p>Consultations to date have identified two limitations of the current contract registration system that have prevented the introduction of new, commercially promising varieties.</p> <ul style="list-style-type: none"> • First, the CFIA does not currently have the regulatory authority to vary contract registration requirements in accordance with the specific characteristics of candidate varieties or to ensure compliance with those requirements. • Second, the CFIA does not currently have adequate capacity to monitor an increased volume of contract registrations to ensure compliance. <p>Regulatory Proposal</p> <p>The CFIA proposes to amend the contract registration system to:</p> <ol style="list-style-type: none"> 1. strengthen enforcement and compliance provisions to more effectively mitigate and manage risks associated with contract registered varieties; and 2. increase its monitoring capacity through a third party auditing model to ensure consistent, thorough oversight of all contract registrations. <p>Together, these proposed changes would help ensure the necessary flexibility and capacity within the contract registration system to provide for the registration of value-added varieties that are currently not eligible for registration.</p>	<p>The real purpose of contract registration is to get varieties onto the market (and into fields and the food system) that</p> <ol style="list-style-type: none"> 1) do not have merit and 2) would cause harm if they escape from the contracted grower and buyer into the broader Canadian grain market. Contract registration is an attempt to use a legal arrangement as a biological containment device, and it will not work. <p>This is an off-loading of regulatory responsibilities to the private sector – and breach of accountability. If the CFIA does not have capacity to do the monitoring, how can it have capacity to monitor the audit process? What recourse does the Canadian public have if the third party auditor fails to do its job?</p>
<p>Question 19: Please rate your degree of support for a strengthened contract registration system to support the introduction of value-added varieties:</p> <p>1 Do not support 2 3 4 5 6 strongly support or I Don't Know</p>	

Question 20: Please explain the rationale for the rating provided.

Question 21: Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal.

Enforcement & Compliance Authority

It is proposed that the terms, conditions and monitoring requirements for contract registration would be stipulated by the CFIA, in consultation with other experts and authorities as required on a case-by-case basis for each variety based on the types and extent of the risks involved. As in the current contract registration system, a process for reviewing decisions of the Registrar with respect to stipulated terms and conditions of registration would be available.

There is a very serious question as to how a variety would be evaluated as "risky" (a candidate for contract registration) or simply without merit (a Tier II candidate). Where is the dividing line?

Risk management as a regulatory principle has been criticized due to the too frequent situation where the decision to take a risky action is made by those who stand to benefit from it, while the consequences or hazards are borne by others who had no part in the decision-making, and did not gain from the risk-taking action.

The CFIA proposes to strengthen its regulatory authority to provide for corrective and preventative actions to be taken to resolve or mitigate potential risks of leakage from contract registration based segregation systems. This would include additional provisions to refuse applications for, and suspension or cancellation of, contract registration when unacceptable risks or problems are identified. Provisions for additional review and oversight authorities would also be included to ensure comprehensive and ongoing review, oversight and management of potential risks.

This means that the CFIA will see if it can figure out who was supposed to close the barn door after the horses have run away. This measure will not **prevent** contamination – it only hopes to identify who was responsible for the contamination **after the fact**. The question of liability is still up in the air. If the contamination caused the loss of, for example, the European flax market, or the Japanese wheat market – who would pay?

Question 22: Please rate your degree of support for strengthening the CFIA's authority with respect to enforcement and compliance for contract registration.

1 Do not support 2 3 4 5 6 strongly support or I Don't Know

Question 23: Please explain the rationale for the rating provided.

Question 24: Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal.

Monitoring Capacity

To provide for increased compliance monitoring capacity, it is proposed that an accredited third party auditing program would be established for contract registrations to monitor compliance with the terms and conditions of registration. Audits would be conducted by an accredited third party conformity verification body that would be subject to audits by the CFIA. The degree of detail and frequency of the audit would be dependant upon the level of risk associated with the variety and past history of compliance. The results of audits would be required to be retained and reported to the CFIA.

There is no explanation of the risk assessment process (how, and by whom) to be used to decide these matters. The federal government's "Smart Regulation" agenda promotes a risk assessment and risk management process that generally allows for risks where the benefits accrue to a few who are in a position to make a choice and make a profit, and the costs are borne by people who have decisions imposed on them by others, and who do not benefit economically.

<p>All contract registrations would be subject to a renewal of registration every two years. Renewal of registration would be based on reassessment of the risks involved and the history of compliance with the terms and conditions of registration.</p>	
<p>Question 25: Please rate your degree of support for strengthening the monitoring capacity for contract registration: 1 Do not support 2 3 4 5 6 strongly support or I Don't Know</p> <p>Question 26: Please explain the rationale for the rating provided.</p> <p>Question 27: Briefly describe the issues that the CFIA should take into consideration with respect to implementation of this particular aspect of the proposal.</p>	
<p>PART 5 — Seed Regulatory Framework Background</p>	
<p>Seed quality in all its facets – germination, analytical purity, health, varietal identity and varietal purity – has a direct effect on the cost and sustainability of the agricultural production systems that rely on them. For that reason, Canada has had federal legislation for seeds for over 100 years.</p> <p>Originally intended in 1905 to assure relative freedom from weeds seeds, the Seed Control Act (and later the Seeds Act) was amended on numerous occasions. These amendments introduced further regulatory controls over seed to assure varietal identity, seed quality, health and germination. A significant component of the evolving seed regulatory framework was a system of seed grading, whereby different grade names (Canada No. 1 and No. 2) clearly identified seed lot quality.</p> <p>The Canadian grading system, variety registration (for most agricultural crop kinds) and the voluntary seed certification program (varietal identity, varietal purity and origin assurance) are the major components of the Seed Program.</p> <p>The Seeds Regulations, which set out the more detailed requirements for how seed can be imported into, exported from and sold in Canada, have been amended numerous times. These amendments have tended, in recent years, to provide for the delegation of authority for seed quality assurance to the private sector. Regulations provide direction as to how seed must be handled, sampled, tested and labeled in import, export and marketing. For the most part, accredited industry personnel perform these activities under official supervision.</p> <p>Amendments to the Seeds Regulations have also provided for the introduction of innovative products, including ground cover mixtures, land reclamation</p>	

<p>mixtures, and specialty lawn grass mixtures. A significant amendment in 1973 restricted the use of variety names to pedigreed seed of certain crop kinds.</p>	
<p>Current and Future Challenges</p>	
<p>Over the past ten to fifteen years, the rapid advances in seed science and technology, structural changes in the plant breeding, seed production and seed trade sectors, and the evolving needs of producers in an increasingly competitive global agriculture environment have challenged Canada’s seed regulatory framework. Genetically modified seeds, increasing organic production, interest in heritage varieties, greater use of native species, recent developments in biofuels, industry consolidation, producer profitability, food safety and quality and demands for greater freedom of choice affect, and are affected by, the seed regulatory framework.</p> <p>The efficiency, sustainability and competitiveness of Canada’s agricultural producers are directly affected by seed policies and regulation. Seed policies are no longer only of interest to agricultural producers and the major national associations of the seed industry. Recent experience with consultation on Canada’s variety registration system has demonstrated a diverse and expanding community of stakeholders and interested parties.</p> <p>Modernization of the seed regulatory framework could result in more innovative, competitive, sustainable and efficient food, feed, fibre and fuel production systems.</p>	<p>And finally, the CFIA directly relates the proposed changes to the need for “more innovative, competitive, sustainable and efficient food, feed, fibre and fuel production systems” – explicitly naming genetically modified seeds and heritage varieties. Whether this has anything to do with ecology, social and economic justice, actually ensuring that every Canadian is well fed or that farmers can actually make a living growing food is another question altogether. Perhaps it all depends on who is included in the community of stakeholders and interested parties.</p>
<p>Question 28: Please briefly identify any other areas within the Seed Program that you feel could be improved and provide a brief explanation of why improvement is needed.</p>	
<p>Question 29: Last Word about the Proposal you just helped to review. Please provide any additional comments or advice about the Proposal itself (up to 250 words).</p> <p>The CFIA welcomes you to continue to contact us in the usual ways (phone, email, web sites, etc.). Seed Section Plant Production Division Canadian Food Inspection Agency 2 Constellation Crescent Ottawa, Ontario Canada K1A 0Y9 Telephone: 613.221.7551 Fax: 613.228.4552 consultations@inspection.gc.ca www.inspection.gc.ca</p>	

30: Quick Evaluation

Please take a minute to tell us about your experience using this “e-Workbook”.

Indicate your level of agreement or disagreement with the following statements, disagreement strong agreement.

a) I found the workbook well laid out and easy to follow: disagree 1 2 3 4 5 strong agreement, I don't know

b) I found the questions straight-forward and easy to understand:

disagree 1 2 3 4 5 strong agreement, I don't know

c) I feel that I was able to express my opinions through this type of format:

disagree 1 2 3 4 5 strong agreement, I don't know

d) CFIA should consider using this approach again in the future:

disagree 1 2 3 4 5 strong agreement, I don't know

Thank You The CFIA appreciates your time and effort toward improving the Canadian Seed Regulatory Framework. Responses received during the consultation period ending on February 28th, 2007 will be reviewed and considered in finalizing the proposed changes to modernize the Seed Regulatory Framework and introduce any required regulatory amendments. Please note, however, that due to the volume of responses anticipated, it will not be possible to respond individually to any comments received. **A summary report of the consultation results will be published on the CFIA website after the consultation is completed.**