

## CANADA

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SEEDS ACT

## **Weed Seeds Order, 2016**

The Minister of Agriculture and Agri-Food, pursuant to subsection 4(2) ([see footnote a](#)) of the *Seeds Act* ([see footnote b](#)), makes the annexed *Weed Seeds Order, 2016*.

Ottawa, May 6, 2016

Lawrence MacAulay

Minister of Agriculture and Agri-Food

### **Weed Seeds Order, 2016**

**1** The seeds of the kinds of plants set out in the schedule are specified to be weed seeds for the purposes of the *Seeds Act*.

### **Repeal**

**2** The *Weed Seeds Order, 2005* ([see footnote 1](#)) is repealed.

### **Coming into Force**

**3** These Regulations come into force on November 1, 2016.

### **Schedule**

(Section 1)

#### **CLASS 1**

**Prohibited Noxious Weed Seeds**

(Applicable to all tables of Schedule I to the *Seeds Regulations*)

| <b>Item</b> | <b>Column 1<br/>Latin Name</b>                                | <b>Column 2<br/>Common Name</b> |
|-------------|---|---------------------------------|
| 1           | <i>Aegilops cylindrica</i> Host                               | Jointed goatgrass               |
| 2           | <i>Alopecurus myosuroides</i> Huds.                           | Slender foxtail                 |
| 3           | <i>Bothriochloa ischaemum</i> (L.) Keng                       | Yellow bluestem                 |
| 4           | <i>Bothriochloa laguroides</i> (DC.) Herter                   | Silver beardgrass               |
| 5           | <i>Centaurea diffusa</i> Lam.                                 | Diffuse knapweed                |
| 6           | <i>Centaurea iberica</i> Trevir. ex Spreng.                   | Iberian starthistle             |
| 7           | <i>Centaurea solstitialis</i> L.                              | Yellow starthistle              |
| 8           | <i>Centaurea stoebe</i> L. (= <i>Centaurea maculosa</i> Lam.) | Spotted knapweed                |

| <b>Item</b> | <b>Column 1<br/>Latin Name</b>  | <b>Column 2<br/>Common Name</b> |
|-------------|---|---------------------------------|
| 9           | <i>Centaurea virgata</i> Lam. subsp. <i>squarrosa</i> (Boiss.) Gugler | Squarrose knapweed              |
| 10          | <i>Crupina vulgaris</i> Cass.   | Common crupina                  |
| 11          | <i>Cuscuta</i> spp.   | Dodder                          |
| 12          | <i>Echium plantagineum</i> L.   | Paterson's curse                |
| 13          | <i>Eriochloa villosa</i> (Thunb.) Kunth                               | Woolly cup grass                |
| 14          | <i>Halogeton glomeratus</i> (M. Bieb.) Ledeb.                         | Halogeton                       |
| 15          | <i>Inula britannica</i> L.  | British yellowhead              |
| 16          | <i>Milium vernale</i> M. Bieb.  | Spring milletgrass              |
| 17          | <i>Nassella trichotoma</i> (Nees) Hack. ex Arechav.                   | Serrated tussock                |
| 18          | <i>Paspalum dilatatum</i> Poir.                                       | Dallis grass                    |
| 19          | <i>Peganum harmala</i> L.   | African-rue                     |
| 20          | <i>Persicaria perfoliata</i> (L.) H. Gross                            | Devil's-tail tearthumb          |
| 21          | <i>Pueraria montana</i> (Lour.) Merr.                                 | Kudzu                           |
| 22          | <i>Senecio inaequidens</i> DC.  | South African ragwort           |
| 23          | <i>Senecio madagascariensis</i> Poir.                                 | Madagascar ragwort              |
| 24          | <i>Solanum elaeagnifolium</i> Cav.                                    | Silverleaf nightshade           |
| 25          | <i>Taeniatherum caput-medusae</i> (L.) Nevski                         | Medusahead rye                  |
| 26          | <i>Zygophyllum fabago</i> L.  | Syrian bean-caper               |

## **CLASS 2**

### **Primary Noxious Weed Seeds**

(Applicable to all tables of Schedule I to the *Seeds Regulations*)

| <b>Item</b> | <b>Column 1<br/>Latin Name</b>                  | <b>Column 2<br/>Common Name</b> |
|-------------|---|---------------------------------|
| 1           | <i>Abutilon theophrasti</i> Medik.              | Velvetleaf                      |
| 2           | <i>Amaranthus tuberculatus</i> (Moq.) J.D.Sauer | Tall water-hemp                 |
| 3           | <i>Ambrosia trifida</i> L.                      | Giant ragweed                   |
| 4           | <i>Anthriscus sylvestris</i> (L.) Hoffm.        | Cow parsley                     |
| 5           | <i>Berteroa incana</i> (L.) DC.                 | Hoary alyssum                   |

| Item | Column 1<br>Latin Name  | Column 2<br>Common Name    |
|------|---|----------------------------|
| 6    | <i>Carduus acanthoides</i> L.   | Spiny plumeless thistle    |
| 7    | <i>Carduus nutans</i> L.  | Nodding thistle            |
| 8    | <i>Cenchrus longispinus</i> (Hack.) Fernald   | Long-spined sandbur        |
| 9    | <i>Chondrilla juncea</i> L.   | Rush skeletonweed          |
| 10   | <i>Cirsium arvense</i> (L.) Scop.   | Canada thistle             |
| 11   | <i>Conium maculatum</i> L.  | Poison hemlock             |
| 12   | <i>Convolvulus arvensis</i> L.  | Field bindweed             |
| 13   | <i>Datura stramonium</i> L.   | Jimsonweed                 |
| 14   | <i>Elymus repens</i> (L.) Gould   | Quackgrass<br>(Couchgrass) |
| 15   | <i>Euphorbia esula</i> L.   | Leafy spurge               |
| 16   | <i>Galega officinalis</i> L.  | Goat's-rue                 |
| 17   | <i>Heracleum mantegazzianum</i> Sommier & Levier                                      | Giant hogweed              |
| 18   | <i>Heracleum sosnowskyi</i> Manden.   | Hogweed                    |
| 19   | <i>Jacobaea vulgaris</i> Gaertn.  | Tansy ragwort              |
| 20   | <i>Lepidium appelianum</i> Al-Shehbaz (= <i>Cardaria pubescens</i> (C.A. Mey.) Jarm.) | Globe-pod hoary cress      |
| 21   | <i>Lepidium chalepense</i> L. (= <i>Cardaria chalepensis</i> (L.) Hand.-Mazz.)        | Lens-pod hoary cress       |
| 22   | <i>Lepidium draba</i> L. subsp. <i>draba</i> (= <i>Cardaria draba</i> (L.) Desv.)     | Heart-pod hoary cress      |
| 23   | <i>Linaria dalmatica</i> (L.) Mill.   | Dalmatian toadflax         |
| 24   | <i>Linaria genistifolia</i> (L.) Mill.  | Broomleaf toadflax         |
| 25   | <i>Linaria repens</i> (L.) Mill.  | Striped toadflax           |
| 26   | <i>Linaria vulgaris</i> Mill.   | Yellow toadflax            |
| 27   | <i>Lythrum salicaria</i> L.   | Purple loosestrife         |
| 28   | <i>Nicandra physalodes</i> (L.) Gaertn.   | Apple of Peru              |

| <b>Item</b> | <b>Column 1<br/>Latin Name</b>  | <b>Column 2<br/>Common Name</b> |
|-------------|---|---------------------------------|
| 29          | <i>Odontites vernus</i> (Bellardi) Dumort. subsp. <i>serotinus</i> (Dumort.)<br>Corb. (= <i>Odontites serotina</i> Dumort.) | Red bartsia                     |
| 30          | <i>Raphanus raphanistrum</i> L.   | Wild radish                     |
| 31          | <i>Rhaponticum repens</i> (L.) Hidalgo  | Russian knapweed                |
| 32          | <i>Setaria faberi</i> R.A.W. Herrm.   | Giant foxtail                   |
| 33          | <i>Solanum carolinense</i> L.   | Horse nettle (Ball<br>nettle)   |
| 34          | <i>Sonchus arvensis</i> L.  | Perennial sow<br>thistle        |
| 35          | <i>Sorghum halepense</i> (L.) Pers.   | Johnson grass                   |
| 36          | <i>Tribulus terrestris</i> L.   | Puncture vine                   |

**CLASS 3****Secondary Noxious Weed Seeds**(Applicable to all tables of Schedule I to the *Seeds Regulations* except Tables XIV and XV)

| <b>Item</b> | <b>Column 1<br/>Latin Name</b>                  | <b>Column 2<br/>Common Name</b> |
|-------------|---|---------------------------------|
| 1           | <i>Ambrosia artemisiifolia</i> L.               | Common ragweed                  |
| 2           | <i>Anthemis cotula</i> L.                       | Mayweed                         |
| 3           | <i>Avena fatua</i> L.                           | Wild oat                        |
| 4           | <i>Avena sterilis</i> L.                        | Sterile oat                     |
| 5           | <i>Barbarea</i> spp.                            | Yellow rocket<br>(Winter cress) |
| 6           | <i>Bromus arvensis</i> L.                       | Field brome                     |
| 7           | <i>Bromus japonicus</i> Houtt.                  | Japanese brome                  |
| 8           | <i>Bromus secalinus</i> L.                      | Cheat                           |
| 9           | <i>Bromus tectorum</i> L.                       | Downy brome                     |
| 10          | <i>Daucus carota</i> L. subsp. <i>carota</i>    | Wild carrot                     |
| 11          | <i>Erucastrum gallicum</i> (Willd.) O.E. Schulz | Dog mustard                     |
| 12          | <i>Galium aparine</i> L.                        | Cleavers                        |

| Item | Column 1<br>Latin Name  | Column 2<br>Common Name     |
|------|---|-----------------------------|
| 13   | <i>Galium mollugo</i> L.  | False baby's breath         |
| 14   | <i>Galium spurium</i> L.  | False cleavers              |
| 15   | <i>Galium verrucosum</i> Huds.  | Warty bedstraw              |
| 16   | <i>Lepidium campestre</i> (L.) W.T. Aiton   | Field peppergrass           |
| 17   | <i>Leucanthemum vulgare</i> Lam. (= <i>Chrysanthemum leucanthemum</i> L.)   | Ox-eye daisy                |
| 18   | <i>Lolium persicum</i> Boiss. & Hohen.  | Persian darnel              |
| 19   | <i>Pastinaca sativa</i> L.  | Wild parsnip                |
| 20   | <i>Plantago lanceolata</i> L.   | Ribgrass                    |
| 21   | All <i>Rumex</i> species (except <i>R. maritimus</i> L. & <i>R. acetosella</i> L.)  | Dock                        |
| 22   | <i>Silene latifolia</i> Poir. subsp. <i>alba</i> (Mill.) Greuter & Burdet<br>(= <i>Silene pratensis</i> (Rafn) Gord. & Gren.) | White cockle                |
| 23   | <i>Silene noctiflora</i> L.   | Night-flowering<br>catchfly |
| 24   | <i>Silene vulgaris</i> (Moench) Garcke  | Bladder campion             |
| 25   | <i>Sinapis arvensis</i> L.  | Wild mustard                |
| 26   | <i>Sisymbrium loeselii</i> L.   | Tall hedge mustard          |
| 27   | <i>Thlaspi arvense</i> L.   | Stinkweed                   |
| 28   | <i>Tripleurospermum inodorum</i> (L.) Sch.Bip.  | Scentless chamomile         |
| 29   | <i>Vaccaria hispanica</i> (Mill.) Rauschert (= <i>Saponaria vaccaria</i> L.)  | Cow cockle                  |

#### CLASS 4

##### Secondary Noxious Weed Seeds

(Applicable to Table XII of Schedule I to the *Seeds Regulations*)

##### The weed species named in Class 3 and in addition:

| Item | Column 1<br>Latin Name | Column 2<br>Common Name |
|------|------------------------|-------------------------|
| 1    | <i>Cerastium</i> spp.  | Chickweed               |
| 2    | <i>Digitaria</i> spp.  | Crabgrass               |
| 3    | <i>Panicum</i> spp.    | Panic grass             |

| <b>Item</b> | <b>Column 1<br/>Latin Name</b>    | <b>Column 2<br/>Common Name</b> |
|-------------|-----------------------------------|---------------------------------|
| 4           | <i>Prunella vulgaris</i> L.       | Heal-all                        |
| 5           | <i>Stellaria media</i> (L.) Vill. | Chickweed, common               |

**CLASS 5****Noxious Weed Seeds**

(Applicable to Tables XIV and XV of Schedule I to the *Seeds Regulations*)

**The weed species named in Class 2 and in addition:**

| <b>Item</b> | <b>Column 1<br/>Latin Name</b>  | <b>Column 2<br/>Common Name</b> |
|-------------|---|---------------------------------|
| 1           | <i>Cerastium</i> spp.   | Chickweed                       |
| 2           | <i>Digitaria</i> spp.   | Crabgrass                       |
| 3           | <i>Leucanthemum vulgare</i> Lam. (= <i>Chrysanthemum leucanthemum</i> L.) | Ox-eye daisy                    |
| 4           | <i>Panicum</i> spp.   | Panic grass                     |
| 5           | <i>Prunella vulgaris</i> L.   | Heal-all                        |
| 6           | <i>Stellaria media</i> (L.) Vill.   | Chickweed,<br>common            |
| 7           | <i>Tripleurospermum inodorum</i> (L.) Sch.Bip.                            | Scentless chamomile             |

**CLASS 6****Other Weed Seeds**

Seeds of all other kinds or species of plants not listed as kinds or species in Schedule I to the *Seeds Regulations*.

**REGULATORY IMPACT ANALYSIS STATEMENT**

(This statement is not part of the Order.)

**Issues**

The current *Weed Seeds Order, 2005* (WSO) does not accurately reflect the potential risks posed by weed species in Canada, results in undue burden on industry stemming from the outdated regulation of weed species, and is not aligned with current international best practices. Also, as a result of amendments to the *Seeds Act* in February 2015, there is a lack of consistency in wording in the WSO that could result in misinterpretation.

**Background**

The *Seeds Act* (the Act) and the *Seeds Regulations* (the Regulations), made pursuant to the Act, govern the import, export and sale of seed to facilitate the availability of pure and

effective seed for Canadian consumers and export markets. The WSO, a ministerial order made pursuant to subsection 4(2) of the Act, plays a critical role in the prevention of the introduction of new weed species into Canada by preventing or limiting the presence of weed species in seed sold in, or imported into Canada.

The WSO includes six classifications of weed seeds that are differentiated by level of risk. The most restrictive class, Class 1 — Prohibited Noxious Weed Seeds, prohibits any level of the listed species. For species listed in classes 2 to 6, the number of weed seeds that are permitted in a seed sample of a crop kind are specified in various tables of Schedule I of the Regulations. Each class identifies which table(s) of Schedule I is (are) applicable. The determination of risk posed by various weed species is based upon considerations such as geographic distribution of weed species and potential harm posed by a weed species.

The geographic distribution of weed species changes over time as a result of weed management practices and as weed species adapt to new growing conditions. From a seed quality and plant protection perspective, it is important that the WSO remains current to ensure that it is an effective tool for prohibiting or restricting weed species of concern, and to control the spread of weed species through seed. The WSO must also address the threat of the introduction of weed species through the importation of seed for all purposes including conventional agricultural products, home-based or residential products such as wildflower mixtures, and land reclamation mixtures composed of multiple crop species used to restore vegetation on unmanaged land. Periodic reviews of the WSO are therefore required to add or remove certain weed species and to review the classifications of all currently listed weed species against the established class risks.

The Canadian Food Inspection Agency (CFIA) identifies potential weed species of concern through scientific scanning and a thorough review of the regulated weed lists of Canada's trading partners. The CFIA conducts risk assessments on these identified weed species to gather information on their geographic distribution both in Canada and abroad, their potential harm, and whether their seeds can be visually identified. These risk assessments are used to determine which WSO class is applicable and if any of the existing WSO weed species should be reclassified or removed.

## **Objectives**

These amendments

- reflect the current distribution of weed species in Canada by ensuring that species are listed under the correct class and include the addition of emerging weed species of concern;
- improve the policy and regulatory frameworks that govern seed in Canada through the reduction of undue burden on industry resulting from the outdated regulation of weed species;
- maintain effective delivery of the CFIA's Invasive Plant Policy by listing weed species of concern in the WSO as Prohibited Noxious Weeds to prevent the introduction and establishment of invasive plants;
- reflect current international best practices and minimize the risk of any potential trade barriers and regulatory requirements that may be more trade restrictive than necessary; and

- align the regulatory text with the wording in the Act to ensure consistency in language and interpretation.

### **Description**

These regulatory amendments revise the current WSO to reclassify existing weed species based on the most recent information about their distribution and regulate new and emerging weed species of concern.

Changes to the WSO include Class 2 Primary Noxious Weed Seeds applying to all Grade Tables in Schedule I of the Regulations (Tables XIV and XV are currently exempt), the reclassification of 11 species from Class 1 (Prohibited Noxious Weed Seeds) to Class 2 (Primary Noxious Weed Seeds), moving 7 species from Class 2 (Primary Noxious Weed Seeds) to Class 3 (Secondary Noxious Weed Seeds), and the addition of 16 species to Class 1 (Prohibited Noxious Weed Seeds), 16 species to Class 2 (Primary Noxious Weed Seeds) and 5 species to Class 3 (Secondary Noxious Weed Seeds). Two listings, *Camelina* spp. and *Chicorium intybus*, were moved from Class 3 (Secondary Noxious Weed Seeds) to Class 6 (Other Weed Seeds).

The revision to Section 1 of the WSO to align the regulatory text with the Act ensures consistency in language and clarifies the authority of the Minister. Therefore, these amendments to the WSO will replace the word “species” with the word “kinds,” and removes the words “for the purpose of establishing grades.”

### **“One-for-One” Rule**

The “One-for-One” Rule does not apply, as there is no change in administrative costs to business as a result of these amendments to the WSO.

### **Small business lens**

The small business lens does not apply to these amendments, as costs to small businesses are insignificant as the nationwide cost impacts are less than \$1 million annually.

### **Consultation**

Prior to prepublication of the proposed amendments in the *Canada Gazette*, Part I, on January 30, 2016, the CFIA conducted extensive consultations with the Canadian seed industry and stakeholders on these amendments to the WSO. The Canadian seed industry is composed of seed producers, seed exporters, seed importers, seed vendors, seed graders/samplers, seed establishments and accredited seed testing laboratories.

Consultation began with two CFIA-led workshops; the first on October 29, 2008 and the second on March 11, 2009. Attendees at the workshops represented the Canadian Seed Trade Association, the Canadian Seed Growers’ Association, the Commercial Seed Analysts’ Association of Canada, the Canadian Weed Science Society, and provincial weed specialists. All consultation documents were distributed by email to the CFIA Seed Section’s general stakeholder list that included approximately 2 000 recipients.

Two consultative proposals were distributed to stakeholders for comment. The initial consultation began October 23, 2009, and closed February 15, 2010. Responses received during the initial consultation were reviewed and integrated into a revised proposal subsequently used for a secondary consultation. The second consultation was conducted



between June 17, 2011, and September 15, 2011. In addition, the CFIA took into consideration all comments submitted by stakeholders outside of the formal consultations.

The CFIA invited provincial weed specialists to WSO workshops and included these specialists in all consultation sessions. The CFIA maintains regular communication with provincial weed specialists in order to facilitate the coordination of provincial weed seed lists and the WSO.

CFIA representatives attended annual Canadian Weed Science Society meetings and provided poster presentations on the new weed seed classifications. The CFIA also addressed proposed revisions to the WSO at various meetings with the Canadian Seed Trade Association, the Commercial Seed Analysts' Association of Canada and the Canadian Seed Growers' Association.

The amendments to the WSO are well supported by key stakeholders. The stakeholders affected by each weed species can vary as the impact of a weed species is dependent on the region of Canada, the type of crop grown, and the production methods used.

The modified application of Class 2 weeds to all tables of Schedule I of the Regulations was supported by the majority of stakeholders. While there were some stakeholders who indicated that the status quo would be preferred, the rationale for the modifications was clearly communicated to all stakeholders. As weed species are re-classified from Class 1 to Class 2, it remains critical that the risk of further introductions of these weed species is minimized. Without Class 2 being applicable to Tables XIV and XV, there is the risk that these Class 2 species would be spread through seed. Tables XIV and XV are specific to lawn or turf mixtures and ground cover mixtures containing two or more kinds of seeds. Class 2 applies to single species lots of these crop kinds so there is no added burden to regulate Class 2 weed species within mixtures of these crop kinds.

The placement of species on the WSO was well supported by key stakeholders. Weed species placement was determined by level of risk for each class within the WSO as established in consultation with stakeholders. A few stakeholders challenged the classification and placement of a few weed species. However, further review by the CFIA determined that the species in question did indeed meet the class level of risk. While some stakeholders have claimed that some weed species believed to be absent from Canada by the CFIA are in fact present in Canada, they have yet to provide evidence to that effect.

The CFIA received stakeholder comments concerning the proposal to list four *Bromus* species as Class 3. One comment received questioned the ability of these four *Bromus* species to establish in Canada, and their potential to cause harm. Concern was expressed about the costs to produce seed lots that meet the standards of the amended WSO. In light of this comment, the CFIA conducted additional scientific reviews which confirmed that the *Bromus* species meet all criteria for classification as a Secondary Noxious Weed Seed or higher. This scientific review and evaluation supports the CFIA's decision to include the four *Bromus* weed species on the WSO as Class 3.

To fulfil its international obligations, the CFIA provided notification on February 5, 2016, of its intent to amend the WSO to the World Trade Organization to provide members with an opportunity to comment on the proposal.

As part of assessing the economic impact that these amendments may have, the CFIA also conducted an economic impact survey in October 2014 to collect data and information from businesses potentially affected by these amendments. The survey focused on the potential economic impact on affected businesses and any potential incremental administrative burden that will be imposed on affected businesses in the industry.

The majority (approximately 98% based on the North American Industry Classification System [NAICS] codes 418320 — Seed Wholesaler-Distributors, 493190 — Other Warehousing and Storage, 111422 — Floriculture Production and 541990 — All Other Professional, Scientific, and Technical Services) of the sector is comprised of small businesses. Only a small portion of businesses in the seed industry will be affected by these amendments based on the economic impact survey responses.

#### **Prepublication in the *Canada Gazette*, Part I — Results**

The proposed amendments to the WSO were pre-published in *Canada Gazette*, Part I, on January 30, 2016, with a 75-day comment period which ended on April 14, 2016. In total, the CFIA received 18 written comments from stakeholders in industry and foreign trading partners. Of the 18 responses

- five respondents indicated overall support for the changes;
- five respondents indicated general support, but indicated one or more items of concern (concerns included references to *Alopecurus myosuroides* (Slender foxtail), *Bromus* spp., *Galium aparine* (Cleavers) and *Sinapis arvensis* (Wild mustard), and two *Solanum* species);
- two respondents only expressed concern with the *Bromus* spp.;
- one respondent only expressed support for the *Bromus* spp.;
- one respondent only expressed concern with Cleavers and Wild mustard;
- two respondents did not speak to any specifics within the proposed amendments, their comments were more general; and
- two respondents were solely seeking clarification of the amendments.

The comments received are summarized as follows:

The CFIA received five stakeholder responses to indicate overall support of the proposed amendments and express their hope that the lengthy consultation and regulatory change process will be completed soon.

As during previous consultations, the CFIA received stakeholder comments concerning the proposal to list four *Bromus* species as Class 3. Responses received from the Government of Saskatchewan and three producer-led provincial stakeholder organizations in the province of Saskatchewan and other stakeholders supported or strongly supported the proposal to list the four *Bromus* species, including some comments to list *Bromus tectorum* (Downy) and *Bromus japonicus* (Japanese brome) as Class 2 rather the proposed Class 3. Comments received from a national stakeholder organization representing the interests of seed companies and a few individuals within the forage seed industry expressed concerns with the proposal. The ability of these four *Bromus* species to establish in Canada, and their potential to cause harm was questioned. Concern was expressed again about the costs to produce seed lots that meet the

standards of the amended WSO. However, the CFIA had already conducted an additional scientific review which confirmed that the *Bromus* species meet all criteria for classification as Secondary Noxious Weed Seeds or higher. This scientific review and evaluation supports the CFIA's decision to include the four *Bromus* weed species on the WSO as Class 3.

Two respondents expressed concern with the proposed listing of Slender foxtail as a Class 1 — Prohibited Noxious Weed Seed. The respondents questioned whether Slender foxtail is in fact present in Canada. This concern had been raised during previous consultations. To date, no populations of Slender foxtail have been found, and the presence of limited populations would not preclude a Class 1 listing. The risk assessment conducted by the CFIA for Slender foxtail supports a Class 1 weed seed listing.

The CFIA received stakeholder comments regarding the proposal to reclassify Wild mustard and Cleavers from Class 2 to Class 3, in general, but specifically as this relates to canola seed. Support for the movement of these Class 3 Secondary Noxious species was received and justified based on increased ability to manage these species in agricultural field crops including canola. In contrast, it was raised that these species are more difficult to manage as herbicide tolerance has been demonstrated. One respondent felt that Wild mustard is manageable and therefore, should not be reclassified to Class 3. It is also important to note that subsection 7(5) of the *Seeds Regulations* prohibits the presence of Cleavers in canola and the other crop kinds in Grade Table VII, regardless of the status of Cleavers on the WSO.

The CFIA also received requests to include additional species on the WSO as part of this amendment. The Province of Quebec asked for the inclusion of *Solanum ptychanthum* (Eastern black nightshade) and *Solanum sarrachoides* (Hairy nightshade) on the WSO. These two species were included during initial consultations on proposed amendments but were removed from the proposal prior to the secondary consultation due to concerns including identification issues of the seed. The seed of these two species are not considered to be visually distinguishable from other species within the *Solanum* genus. A national stakeholder organization representing the interests of Canadian seed growers requested the addition of *Amaranthus retroflexus* (*A. retroflexus*) to Class 3 and further study of *Bassia scoparia* (*B. scoparia*) to determine its appropriate classification within the WSO. Both *A. retroflexus* and *B. scoparia* were included in the CFIA's first consultation proposal as Class 3 and Class 2 respectively; however, consensus was not achieved and they were proposed as Class 6 Other Weeds in the CFIA's secondary consultation. As consensus has not been achieved, further consultations are required prior to addition to the WSO.

As in previous consultations, a national stakeholder organization representing the interests of Canadian seed growers raised concerns regarding the implications for its members of the addition of new species to the WSO that are also regulated by the CFIA on the List of Pests Regulated by Canada under the *Plant Protection Act* (PPA). The *Weed Seeds Order, 2005* contains Class 1 species that are also regulated under the PPA. The members of the national organization are concerned about the significantly increasing number of plant species able to trigger regulatory action under both the *Seeds Act* and the PPA. Of particular concern is the ability to take action under the PPA, significantly increasing risk for pedigreed seed growers and, given the potential economic loss associated with such action, the national stakeholder organization requests that CFIA review its plant protection compensation policy. The CFIA will continue to communicate with stakeholders in order to clarify the interaction of the *Seeds Act* and the PPA in relation to weed species regulated under both acts.

One individual expressed concern that listing plant species as weeds could be problematic should future uses be identified for those species. The CFIA evaluates all species proposed to be added to the WSO and only proposes to regulate species that have sufficient risks identified to support regulation. Also, this amendment includes the removal of *Camelina* spp. (False flax) and *Chicorium intybus* (Chicory) from Class 3 as they are gaining popularity as agricultural crops. This concern will continue to be addressed as future reviews to the WSO will allow for species classifications to be reassessed in light of any new information that may become available.

### **Rationale**

An amended WSO will contribute to a reduction in the number of introduced and established weeds in Canada, thereby preserving biodiversity and will contribute to maintaining the effective delivery of CFIA's Invasive Plant Policy. The amendments ensure that species are listed under the correct class and include emerging weed species of concern. The amendments to the policy and regulatory frameworks improve the efficiency of agricultural production by reducing undue burden on industry resulting from the outdated regulation of weed species.

These amendments satisfy the fundamental objective of revising the WSO to enhance its effectiveness by reflecting the current distribution of weed species in Canada, ensuring that weed species are listed under the correct class, and that emerging weed species of concern are included. In addition, the revised WSO will improve Canada's application of current international best practices and conformity with current scientific nomenclature.

These regulatory amendments revise the current WSO to reclassify existing species based on the most recent information about their distribution and introduce new weed species of concern. These amendments to the WSO also include the addition of some species not yet present in Canada thus preventing or slowing the spread of these weeds and the potential negative impact of their introduction.

Agricultural producers have established weed management regimes that align with their production methods and the weed species of concern present on their land. The establishment of a new weed species requires producers to review and revise their weed management plans which could increase their production costs.

Preventing the introduction of a weed species not yet present in Canada also eliminates a potential export issue that would require additional inspection services. The amended WSO will assist in maintaining market access for Canadian products as most countries have increasing restrictions on the presence of particular weed seeds in seed and grain import shipments. If Canada can remain free of prohibited noxious weeds, the reputation and value of Canada's agricultural products in world markets will be, at minimum, maintained.

Only a small portion of businesses in the seed industry will be affected by these amendments based on the economic impact survey responses. Based on the survey results, it is estimated that approximately 11% of seed companies that develop, produce and sell seed, 22% of seed producers, 28% of accredited seed testing laboratories and 39% of businesses such as seed establishments and authorized importers etc. will be affected. The majority of affected businesses (approximately 98%) are small businesses. These affected small businesses could expect to incur incremental compliance costs to purchase additional screens (a component of a

seed cleaning machine) for additional seed cleaning, and costs to train seed analysts in identifying all added WSO species.

In contrast, some affected businesses will benefit from cost savings resulting from the reduced seed cleaning costs based on the reclassification of some species.

With respect to training costs, CFIA staff, accredited labs, and seed industry personnel including seed graders will need to be trained on the amended WSO and on the identification of new weed seed species. Government and seed industry personnel will need to invest one to several days per person in training to become familiar with the new species listed on the revised WSO. In completing the analysis, it was assumed that the training cost for the industry (e.g. seed industry personnel, including seed graders) will be the same as for training costs for seed analysts.

Additional industry costs may also include improved quality management systems to reduce risks associated with new species listed on the WSO as well as the potential costs of cleaning or destroying seed that cannot be sold in Canada if it does not meet the minimum standard set out in Schedule I of the Regulations.

Market and export value losses were also identified by some of the stakeholders as a potential impact of these amendments. In order to avoid or to minimize a potential market loss caused by a delay in identifying the weed species in the amended WSO, affected businesses will need to train their seed analysts immediately.

It is anticipated that export and domestic value losses will impact a small portion of seed exporters of grasses mainly in Alberta and Saskatchewan as a result of the addition of the *Bromus* species to Class 3 of the WSO due to the discount on these seed lots. The impact is not considered significant as only a few businesses (about 10) would be affected.

The standard cost model was used to conduct the quantitative cost analysis as per Treasury Board of Canada Secretariat guidance. The data used in the analysis was gathered through the economic impact survey.

Based on the above information, standard cost model methodology and assumptions regarding training, the estimated incremental compliance costs for all businesses resulting from these amendments will have an annualized value of \$213,214, which equates to \$49 per affected business. As almost all of the affected businesses are small businesses, almost all of these costs will be incurred by small businesses. The results are based on a regulatory coming into force year of 2016 using constant year 2012 prices.

### **Implementation and enforcement**

These amendments to the WSO will come into force on November 1, 2016.

There will be no new enforcement provisions associated with these amendments to the WSO.

The CFIA will take a proactive approach to educating and informing industry and stakeholders on the amendments to the WSO. The CFIA will provide notification of the amendment to the WSO to industry and stakeholders, CFIA staff, and to federal and provincial government departments and agencies as appropriate including posting the amendments on the CFIA's Web site.

The CFIA's Saskatoon Laboratory, Seed Science and Technology Section (SSTS) houses Canada's National Seed Herbarium (NSH). The NSH's staff expertise and specimen collections were used to develop seed identification factsheets for the species added to the WSO. Many factsheets have been published on the CFIA's Web site. The SSTS is working with stakeholders to develop training resources to prepare for the coming into force of the revised WSO.

- [Footnote a](#)  
S.C. 2015, c. 2, s. 76(5)
- [Footnote b](#)  
R.S., c. S-8
- [Footnote 1](#)  
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