



## USE OF VARIETY NAMES AND THE IMPORT AND SALE OF UNREGISTERED VARIETIES

**It is a contravention of the *Seeds Act* to sell pedigreed or common seed, of an unregistered variety of a species listed in Schedule III of the *Seeds Regulations* (the *Regulations*) except as provided for by subsection 5(4) of the *Regulations*.**

The following provides some guidance on the use of variety names on seed in Canada as prescribed by the *Seeds Act and Regulations*.

### BACKGROUND

A variety is an assemblage of cultivated plants distinguished by common morphological, physiological, cytological, chemical or other characteristics that are retained when the seed is reproduced. Pedigreed seed is seed that is of Foundation, Registered or Certified status or approved by the Canadian seed Growers' Association as Breeder or Select Seed.

The pedigree of the seed provides information concerning the number of generations of multiplication from Breeder seed and provides confidence in the varietal purity of the seed. The grade, No. 1 or No. 2, provides assurances that the seed lot was tested and met standards for germination, weed seeds, seed of other crop species and disease propagules. The grade names "Common No. 1" and "Common No. 2" and "Common" (upper case C) indicate that the seed has met prescribed quality standards for weed seeds, other crop species, disease propagules, and percentage germination as detailed in Schedule I of the *Regulations*.

The term "common" (lower case c) is applied to non-pedigreed seed that is of uncertain varietal origin or purity.

### USE OF VARIETY NAMES

**Schedule II of the *Regulations* lists over 70 crop kinds which may only be named as to variety when the seed is of pedigreed status.**

Stated inversely, a variety name may be applied to any seed of crop kinds not listed in Schedule II. Restricting the use of variety names to pedigreed seed of crop kinds in Schedule II protects the interests of purchasers by providing third party assurances through the seed certification system that seed meets prescribed quality standards and will have the characteristics attributed to that variety.

Common seed of the crop kinds listed in Schedule II may not be labelled, advertised or sold with a variety name. Pedigreed seed that has been contaminated such that the varietal purity has been compromised and the seed does not meet the variety purity standard can only be sold as common seed. Also, pedigreed seed that does not meet the prescribed quality standards may be labelled with a common grade name but cannot then be sold by variety name.

It is a contravention of the *Seeds Act* to sell pedigreed or common seed of an unregistered variety of a crop kind listed in Schedule III of the *Regulations* except as provided for by subsection 5(4).

Seed of unregistered varieties of the crop kinds in Schedule III, which are subject to variety registration, cannot be labelled as common seed and then sold without a variety name in order to circumvent the *Seeds Act* (such that this sale of seed of an unregistered variety is not evident).

### **AN EXAMPLE**

A producer plants pedigreed seed of a registered variety 'X'. The crop is not field inspected and no (seed) crop certificate is issued. Any progeny sold as seed is considered common seed and cannot be labelled with a variety name or a Canada pedigreed grade name.

The common seed can be graded, labelled and sold as Common No. 1 or No. 2, (or in the case of canola, Common), if it meets the quality standards for those grades. It cannot be included in a Certified Mixture or a Varietal Blend.

If a grain crop produced from pedigreed seed is delivered to a grain elevator, it is expected to be of a variety eligible for a specific class according to the regulations and policies of the Canadian Grain Commission (CGC). The *Seeds Act* and *Regulations* do not provide authority over the use of variety names on grain.

### **IMPLICATIONS FOR THE ADVERTISING OF SEED**

The *Regulations* prohibit the advertisement or sale of common seed of crop kinds in Schedule II by variety name. A variety name may only be used in advertisements for pedigreed seed that has been grown, processed, sampled, tested and graded as set out in the *Regulations*.

### **IMPLICATIONS FOR THE IMPORT OF SEED**

The *Seeds Act* and *Regulations* prohibit the import of common seed of unregistered varieties except for the following: (a) conditioning, (b) research, (c) seeding by the importer and (d) sale pursuant to subsection 5(4).

Subsection 5(4) of the *Regulations* provides an exemption for the sale of pedigreed seed of unregistered varieties under "closed-loop" conditions if the seed is for the production of pedigreed seed or, if the variety is entered into variety registration trials, for the production of a crop for evaluation of its suitability for processing.

The notice of import conformity is issued by the Canadian Food Inspection Agency's Import Conformity Assessment office (Saskatoon Seed Laboratory) or by an individual accredited by the CFIA under section 13.1 of the *Regulations*, in the case of seed imported by an Authorized Importer. The prohibition of import of seed of unregistered varieties (pedigreed or common) applies to all seed imports (except for the specific exemptions outlined above).

It is not permitted to import seed of unregistered varieties of forage crop types listed in Schedule III (except for the specific exemptions outlined above); however, non-pedigreed seed of forage crops do not need to be named by variety on import documentation.