

Exporting Grain, Oilseeds and Special Crops to the United States

Prepared for:

Alberta Agriculture and Rural Development

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Forward

Alberta Agriculture and Rural Development is pleased to offer this exporting publication to help producers and others who are not familiar with the procedures of clearing grain, oilseeds or special crops shipments through U.S. Customs and Border Protection (U.S. CBP). This publication emphasizes areas that require specific **knowledge and understanding** when marketing grain in the U.S.

It is very important to understand that the information provided in this publication is for general purposes only. Canadian exporters may also wish to get help from private-sector experts who specialize in importing grain into the US, such as licensed U.S. Customs Brokers, lawyers or import-export consultants.

In this booklet, the term “grain” refers to cereal grains, oilseeds and special crops, unless otherwise noted.

Beginning August 1, 2012 producers no longer need to obtain an export permit from the Canadian Wheat Board to export wheat and barley.

It is best to hire a U.S. Customs Broker if you choose to market your own grain to the U.S. U.S. Customs Brokers is highly qualified and know the required procedures and documents. For a reasonable fee, they will help with the paper work. This will eliminate almost all delays that you could experience without their help.

Many grain companies in Western Canada market grain into the U.S. They may be able to provide you with bids for movement into this market. However, this publication deals primarily with marketing grain directly from Alberta to a U.S. buyer.

This publication also shows examples of some U.S. CBP documents which may be filled out in hard copy. Other required U.S. documents can only be filled out on-line, in other words, on a computer connected to the internet.

Always double check with a U.S. Customs Broker to make sure there has been no U.S. documentation changes since this writing. The required U.S. documents can be obtained from a U.S. Customs Broker when requested.

A glossary in the Appendix helps explain the common terms used in grain trading with the U.S. This publication was developed in consultation with the private sector and has been updated to include changes made since the tightening of U.S. import rules after “nine-eleven”.

A significant amount of time went into fact-checking during the writing of this booklet. This booklet is, to the best of our knowledge, accurate at the time of printing. However, names, addresses, procedures and web sites do change, sometimes quite often. It is best that potential exporters verify all information before beginning an export process.

Additional information about exporting grain to the U.S. is available at the *Canada-U.S. Grain and Seed Trade* web site at: <http://canada-usgrainandseedtrade.info/>. Click on the Canadian Flag link on the home page for more details.

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Executive Summary

Exporting grain, or any other product, for that matter, to the U.S. is not as simple as “let’s-load-the-truck-and-head-‘er-south”. A significant amount of documentation is required by various U.S. government agencies.

Canadians considering exporting grain to the U.S. are strongly encouraged to arrange an account with a licensed U.S. Customs Broker. A Customs Broker’s services will significantly reduce the time needed to prepare required U.S. documents. Some of the documentation can only be completed by a Customs Broker.

Prairie producers wanting to haul their own grain to the U.S. must have a Canadian passport, a driver’s license appropriate for the size of truck and valid vehicle insurance. Canadian trucks must be registered with the U.S. Federal Motor Carrier Safety Administration, the International Registration Plan and the International Fuel Tax agreement. As well, Canadian trucks must not use colored fuel while operating in the U.S.

Prairie producers can also ship grain to the U.S. by rail in producer cars. Prairie producers must apply to the Canadian Grain Commission for producer cars to ship grain south.

A Canadian exporter should contact as many potential U.S. buyers as possible to determine if the grain meets buyers’ needs, to compare various buyers’ prices and to determine all the costs of getting the grain to any potential buyer. Actually visiting potential buyers and taking samples is preferred.

A Canadian exporter must thoroughly research all potential U.S. buyers to be certain they are financially stable. They should be licensed and bonded at the federal or state level and fully able to pay for delivered grain.

All exported grain will be sampled and inspected by U.S. government staff at the Port of Entry to determine if it is contaminated with weed seeds, insect pests, plant diseases and to determine if the grain has had pesticides applied that aren’t approved in the U.S.. Exporters must make sure the grain will pass this inspection.

Most U.S. states have grain check-offs collected at the first point of sale of grain. Some are refundable and some are not. The amount of the check-off, especially if it is non-refundable, should be included in any grain export budget.

There may be U.S. federal and state income tax and state sales tax implications of exporting grain to the U.S.

Appendix 6 provides a much more detailed “Grain Exporter Checklist”.

Section 1:

Personal Identification and other Documents Required to Enter the U.S.

Driver's License

Drivers of Canadian producer-owned or commercial trucks require a provincial driver's license appropriate for the size of transport truck they are driving.

Other Personal Documents

According to the Canadian Border Services Agency, all Canadian citizens entering the U.S. are required to present **one** of the following documents when entering the United States by land or water:

- a passport;
- a NEXUS card;
- a Free and Secure Trade (FAST) card;
- an enhanced driver's licence (EDL) or an enhanced identification card (EIC) from a province where a U.S.-approved EDL/EIC program has been implemented; or
- a Secure Certificate of Indian Status (In the interim, the current Certificate of Indian Status is an acceptable document to present when entering the United States by land or water.)

More details about the above personal documents is available at: <http://www.cbsa-asfc.gc.ca/whit-ivho/tourist-touriste-eng.html>.

Vehicle Insurance

All producer and commercial trucks must carry, in the vehicle, an insurance document produced by an insurance company showing insurance policy coverage. The document must be in English.

Form MCS-90

The U.S. Federal Motor Carrier Safety Administration (FMCSA) requires that all "commercial" or "for-hire" carriers carry a completed Form MCS-90. The MCS-90 provides the truck with a unique USDOT number as proof of registration. There is no application fee for a USDOT number.

The U.S. FMCSA defines a "commercial" carrier as a "self-propelled or towed motor vehicle (trailer) used on a highway in interstate commerce to transport property when the vehicle has a gross weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater " "Interstate" means the vehicle crosses a state boundary.

At the time of writing, a Canadian tandem or tractor-trailer unit registered as a farm truck must have completed and carry a MCS-90 form and must have obtained a USDOT number.

An MCS-90 shows proof of required financial responsibility. All vehicles operated by *for-hire* carriers must have an MCS-90. Canadian carriers, operating in the U.S., must have a readable copy, in English, on board the vehicle. Some Canadian carriers leased to and operating under the authority of a US carrier would not need the form in the vehicle when operating in the U.S.

The FMCSA can be contacted toll-free at 1-800-823-5660. The FMCSA web page is at <http://fmcsa.dot.gov>.

The U.S. FMCSA registration can be completed on-line at: <http://www.fmcsa.dot.gov/forms/public/online.htm>

Section 2

Steps Required Before Exporting Canadian Grain

There are a number of steps that must be completed before any product, including grain, can be exported from Canada.

This section will describe those steps as of August, 2012. Procedures may change from time to time. An exporter, wanting to export grain to the U.S., should check to see if any procedures or documents have changed since that date.

More details on the export steps are on the Canada Border Services Agency (CBSA) web site at: <http://www.cbsa.gc.ca/sme-pme/e-guide-eng.html>.

Step 1

Obtain a Business Number from the Canada Revenue Agency (CRA) for an import-export account.

- Call 1-800-959-5525 or register on-line at *Business Registration Online* at: <http://www.cra-arc.gc.ca/tx/bsnss/tpcs/bn-ne/bro-ide/menu-eng.html>

Step 2 –

- BEFORE potential exporters begin contacting potential U.S. buyers, accurately identify, describe and record the grain you want to export.
 - Specifically, what crop (or mixture of crops) and what grade and quality, including test weight and protein content, where applicable, is the crop that is being considered to be exported.
 - There is no specific form for this but it should be written down so the product can be accurately described to a potential buyer.
- This is needed before proceeding to Steps 3 and 4.

Step 3

- Make sure the grain is Canadian- or U.S.-produced.
- At the time of writing, a General Export Permit is not required to export Canadian-produced grain or to re-export U.S.-produced grain to the U.S.

Step 4

- Make sure the grain can be exported from Canada.
- There are a number of items which cannot be exported from Canada, but at the time of writing, grain – cereals, oilseeds and special crops – do not appear on the list.

Step 5

- Determine whether or not the grain you want to export has Canadian export restrictions or has other special requirements.
 - Goods having export restrictions require an Export Permit
- **At the time of writing, there are no Canadian export controls on Canadian- or U.S.-origin grain.**
- More information on export controls is available at: http://www.international.gc.ca/controls-controles/about-a_propos/expor/before-avant.aspx?lang=eng&view=d

Step 6

- Make sure that the grain you are considering exporting is allowed into the U.S. (or other importing country).
- **At the time of writing, the U.S. has no restrictions on imports of Canadian grain.**

Note: The Canadian Border Services Agency has prepared a *Checklist for Exporting Commercial Goods*. The checklist is shown below:



Checklist for Exporting Commercial Goods

This checklist, to be used in conjunction with the *Step-by-Step Guide to Exporting* (www.cbsa.gc.ca/sme-pme), is a tool to help you with the commercial exporting process and is intended to complement and not replace existing regulations, acts and references. Exporting requirements include the following:

Before exporting

- Obtain your Business Number by creating an import-export account with the Canada Revenue Agency.
- Identify the goods you want to export. You may also want to check that the goods you are exporting are admissible in the country of final destination.
- Determine whether you will use the services of a customs broker or freight forwarder and calculate any associated costs.
- Verify whether the goods are controlled, regulated or prohibited by any government department or agency. Obtain an export permit if required.
- Determine whether the goods need to be declared on an export declaration.
- If an export declaration is required, determine the eight-digit export code for the goods from Statistics Canada's Canadian Export Classification.
- Select the method of shipping (by air, highway, marine, post or rail) and identify the export reporting time frame for that method.

To export

- Complete an export declaration. If the goods are not subject to an export declaration, advise your carrier and indicate "no declaration required (NDR)" with the proper explanation or corresponding numerical code on the transport documentation (cargo control document, manifest, bill of lading, etc.).
- Submit the export declaration electronically by using the Canadian Automated Export Declaration (CAED) or G7 Electronic Data Interchange (EDI).
- When electronic permits are not available, present a paper copy of the electronic export declaration and the other government department(s) permit at the CBSA office closest to the point of exit.

Please note

- Should you need to cancel a shipment or modify information about a shipment that you have already reported, you must submit an amended declaration.
- Government officials may examine the shipment.
- The Administrative Monetary Penalty System (AMPS) ensures compliance with CBSA legislation.
- Keep records of your exports for a period of six years following the date of export.

For other exporting and importing resources, visit the SME Centre at www.cbsa.gc.ca/sme-pme.

For more information, within Canada call the Border Information Service at 1-800-461-9999. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time/except holidays). TTY is also available within Canada: 1-866-335-3237.

The Canadian Trade Commissioner Service (CTCS)

The CTCS also provides assistance with exporting Canadian products. The CTCS web site is at: <http://www.tradecommissioner.gc.ca/eng/home.jsp>

A very detailed "Exporting to the United States - Guide for Canadian Businesses" is available from the CTCS at: <http://www.tradecommissioner.gc.ca/eng/exporting-to-united-states.jsp>

Section 3

Before Leaving Canada With Your Grain

A Canadian grain exporter must also complete these simple steps.

Step 1

Prepare a Scale Ticket

- The exporter must know the net weight of the truck load.
- A producer or exporter should have the exporting truck weighed empty at a certified scale. The truck should then be weighed again after it has been loaded to determine the net weight of the exporter's grain.

Step 2

Prepare a Bill of Lading

- A Bill of Lading is not absolutely required by U.S. Customs and Border Patrol but it is useful to exporters.**
- A Bill of Lading shows:
 - o The shipper's, owner's or consignor's name or company name and address.
 - o The name and address of the consignee or buyer.
 - o The destination of the product or products.
 - o A description and net weight of all goods (grain) loaded on each truck or in each rail car.
- A Bill of Lading for loaded rail cars will be prepared by a U.S. Customs Broker.**

Step 3

Prepare a B-13A Export Declaration Form for certain grain exports

- Truckers are not required to stop to submit a B-13A Export Declaration form to the Canadian Border Services Agency (CBSA) as they are leaving Canada unless the product is destined for a non-U.S. destination. If the product entering the U.S. is being transshipped through the U.S. to another country, the B-13A is still required to be delivered to the CBSA when it exits Canada. Also, export of any "controlled" product is also required to be declared to CBSA at the point and time of exit.

Note: Effective April 1, 2012, the CBSA began working toward eliminating the paper B-13A Export Declaration Form for exporters. Instead CBSA will implement compulsory electronic reporting. Details of the compulsory electronic reporting are available under at <http://www.cbsa.gc.ca/sme-pme/e-guide-eng.html> under **Point #11**.

Note: *Exporting Goods from Canada: A Handy Guide for Exporters* provides much more detail about the export process. It is available at http://www.cbsa.gc.ca/publications/pub/bsf5081-eng.html#_Toc219790941

Step 4

Only Required if Entering the U.S. through a Non-Commercial Permit Point

- A Non-Commercial, Permit Point is a U.S. border crossing that operates primarily to allow non-commercial and personal traffic to enter the U.S. from Canada and vice versa.
- The Wild Horse crossing south of Medicine Hat, Alberta, is a Permit Point.
- Anyone wanting to enter the U.S. with any commercial product, including grain, through a Non-Commercial Permit Point must apply **at least** 45 days before the expected date of entry. Forty-five days is required to give the application time to be processed.
- The application, which is very extensive, goes to U.S. Customs and Border Patrol.

- It is recommended that exporters have this Permit Point application prepared and submitted through a U.S. Customs Broker.
- Due to the long pre-entry document processing time, it is recommended that grain being exported to the U.S. pass through a Commercial Port, such as Sweetgrass, Montana.

Section 4

Entering the U.S. With Grain

Exporting grain to the U.S. requires that certain procedures must be followed and proper documentation is carefully and fully completed by the exporter.

Prior Notice – U.S. Food and Drug Administration,

All Canadian producer and commercial trucks, loaded with grain (or any other food), and wanting to enter the U.S., must obtain a Prior Notice (PN) number for each shipment before crossing the border. A PN is required by the U.S. Bioterrorism Act (BTA) of 2002 and is administered by U.S. Customs and Border Protection (U.S. CBP).

A PN must be filed electronically, by computer, before the arrival of the shipment at a U.S. Port of Entry.

The PN can be filed electronically at:

<http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/PriorNoticeofImportedFoods/default.htm>

The PN filing will ask for, at least, the following information:

- The country from which the article originates,
- The country from which the article is shipped,
- Anticipated CBP port of arrival,
- U.S. CBP Automated Commercial System (ACS) entry type and date,
- In the event that U.S. CBP holds a cargo for entering the U.S., the information about where it is being held,
- The names of all carriers if more than one is used.
- Firm name and address,
- E-mail address
- Telephone and fax numbers,
- Registration number,
- Standard carrier abbreviation code

A PN filing is required for:

- Merchandise covered under the BTA and imported or offered for import into the United States,
- Every entry item that has a separate FDA product code requires a separate PN,
- Every entry item from separate facilities requires a separate PN.
- Every entry item for separate consignees on a consolidated (grouped) entry.

Once the PN has been filed, the U.S. FDA will issue a PN Number. This PN Number points the U.S. CBP staff to entry details that have been filed with the U.S. CBP before the product arrives at the border.

The Prior Notice information is in addition to the normal FDA admissibility information required under section 801(a) of the U.S. Food, Drug and Cosmetic Act.

The Prior Notice information must be electronically submitted and a confirmation issued by the FDA before entry is allowed. Entry into the U.S. is not allowed unless the FDA confirmation has been issued a certain minimum lead-time before the grain arrives at a port or border crossing. The lead-times are dependent upon the mode of transportation for the goods.

The minimum PN time limits are:

- Truck/Pedestrian/Cart/Car – 2 hours before arrival
- Air/Rail – 4 hours before arrival
- Vessel – 8 hours before arrival
- Merchandise arriving by ferry carries the same time frames as the mode of transportation placed on the ferry.

The earliest that PN data can be filed is no longer than 10 days before the arrival of the goods into the United States.

There is no minimum value for merchandise subject to Prior Notice. Therefore, all shipments regardless of value, must meet the Prior Notice (PN) requirements of the BTA, unless specifically exempted.

The following commodities are excluded from the PN requirements of the BTA:

- Personal food and/or gifts (non-commercial purpose) accompanying or shipped by an individual.
- Merchandise that is immediately exported (IEs) outside of the U.S.
- Meat, poultry, and egg products **exclusively** subject to USDA jurisdiction.
- Homemade goods shipped as gifts.
- Food items shipped via diplomatic pouch.
- Foods normally subject to the BTA that are included in shipments of household goods.
- Non-consumption samples for testing only.

Products arriving at U.S. Ports of Entry without a PN Number will be refused entry into the U.S. Products that are refused entry may be:

- Held at the port.
- Directed to secure, bonded storage facility.
- Exported (at the shippers or carriers request) to another country or shipped back to the originating country.

Further assistance or information on U.S. FDA registration and the Bioterrorism Act are available at:

- Phone toll-free: 1-800-216-7331 (in the U.S. only)
- Phone outside the United States: 301-575-0156
- Fax: 301-210-0247
- Web site: <http://www.fda.gov/default.htm>

A U.S. Customs Broker is invaluable in helping crop exporters file a PN.

U.S. Import Issues: Quotas, Duties, Phytosanitary Certificates and Import Permits

Imports of wheat, oats, barley and other crops into the U.S. are not subject to import quotas. There are no limits to how much grain an exporter or importer can bring into the U.S.

U.S. duties on imported grain vary by type of grain and whether the product is intended for food-use or for seed. Most grain for food consumption enters duty free. Some grain, for use as seed, is subject to duties. Details on duties are available at the U.S. International Trade Commission web site at: <http://www.usitc.gov/tata/hts/bychapter/index.htm>

At the time of writing, phytosanitary certificates are not required for raw or unprocessed cereal grains intended for human consumption or animal feed. Cereal grains must, however, be inspected at the Port of Entry before proceeding into the U.S.

Some other crops, such as dry peas or canola or mustard, do not require a phytosanitary certificate but do require an Import Permit plus some additional documentation. Check with your U.S. Customs Broker or U.S. CBP to determine what documents are required.

Grain, intended for seed or screenings, often has different U.S. import duties and may have different restrictions than grain for food. Be sure to check with your U.S. Customs Broker or U.S. CBP before shipping any of these products.

Entering the United States

Any commercial or producer-owned truck hauling any merchandise, including grain, oilseeds and special crops, must stop at a U.S. CBP facility at the Port of Entry.

The exporter must present a Scale Ticket to begin the export process. A Bill of Lading is not absolutely required by U.S. CBP but it is useful since it shows ownership at that point.

Any merchandise, including grain, oilseeds and special crops, arriving in the U.S. by commercial carrier or a producer's truck, must be "brought in" by one of:

- the seller,
- the buyer,
- the seller's or the buyer's authorized regular employee or
- the seller's licensed U.S. Customs Broker.

This means, either the exporter or importer must be with the grain when it enters the U.S. or the exporter must provide someone with Power of Attorney to act on the exporter's behalf at the border. Normally the person given this Power of Attorney is a U.S. Customs Broker.

A U.S. Customs Broker is usually used to clear commercial export shipments to the U.S. The services provided by a U.S. Customs Broker are described in more detail in the "Choosing and Using a U.S. Customs Broker" section, and in the "Required Documentation for Shipping Grain to the U.S." section.

Note: U.S. CBP officers and employees are not authorized to act as agents for importers, exporters or forwarders of imported merchandise. They may, however, give reasonable advice and assistance to inexperienced importers. **Another reason to use the services of a U.S. Customs Broker is to provide detailed information that U.S. CBP staff are unable to provide.**

Section 5

Choosing and Using a U.S. Customs Broker

Detailed, neatly-prepared invoices and documentation are an absolute must for exporting grain.

Completing the required U.S. Customs and Border Patrol (U.S. CBP) and Food and Drug Administration (FDA) documents, without using a U.S. Customs Broker, is not the place to save exporting costs.

Make sure you select a U.S. Customs Broker who is familiar with dealing with exporting your particular product.

Arrange for a phone or in-person interview with more than one U.S. Customs Broker well in advance of your first shipment. Do not be afraid to question the Customs Brokers you talk to on all the necessary procedures and documentation. A Customs Broker will, or should be, very willing to help you. Most problems that occur in clearing through U.S. CBP are a result of improper and incomplete documentation.

U.S. Customs Brokers will:

- Prepare and file the necessary U.S. CBP paper work,
- Arrange for the payment of any duties payable,
- Take steps to arrange the release of the goods that are in U.S. CBP custody and
- Represent their clients in other U.S. CBP matters.

In order for a U.S. Customs Broker to make entry (arrange for the product to enter the U.S.) on an exporter's behalf, the Broker must be named in a U.S. CBP Power of Attorney, signed by you. **A copy of this type of form is shown in the "Required Documentation for Shipping Grain to the U.S." section of this publication.**

The fees charged for a Customs Broker's services will vary according to the Customs Broker and the services performed. Fees are usually based on volume and how complete the document package is when the Broker receives it from the exporter, the trucker or the carrier. Fees range from US\$8.00 to US\$10.00 per load for five or more shipments per day up to US\$50.00 per load or more for one shipment per month. Additional fees are charged for phone calls and exporter requests to complete or update required documents. Brokers do not normally complete documents for a U.S. importer for legal reasons.

U.S. Customs Brokers' services are required by law regardless of whether the owner or purchaser of the merchandise is making entry when:

- **importing any textiles,**
- **the load is valued at more than about US\$2000.00,**
- **the truck driver (if it is a commercial carrier or even a producer's truck) does not have the right to make entry - in other words the driver is not a regular employee of the exporter or the driver has no Power of Attorney.**

It is strongly recommended that exporters hire a U.S. Customs Broker, even if the exporter is shipping his/her own grain in his/her own truck and the value does not exceed US\$2,000.

A bond is required by U.S. CBP for the value of all goods plus any duties. A U.S. Customs Broker will supply the necessary bond and file proper entries and forms required by other U.S. Government agencies. All duties, taxes, Merchandise Processing Fees (MPF) and potential penalties usually require a bond. A cash deposit may be used in place of a bond,

but in many cases a U.S. Customs Broker will use their bond to meet U.S. CBP requirements and bill you later for the cost of the bond.

Every person exporting grain to the U.S. should have a U.S. Customs Broker. The Customs Broker can help prepare the proper U.S. documents and help navigate the many U.S. regulations. A Customs Broker can help avoid delays that can be costly.

A Customs Broker's fees, if the Broker has been given all the necessary information, are considerably less than what a trucker may charge for border-delay waiting time.

Important: A U.S. Customs Broker needs a Power of Attorney, signed by the exporter, so the broker can make entry into the U.S. on the exporter's behalf.

All U.S. grain imports require a U.S. Food and Drug Administration (FDA) release. U.S. Customs Brokers may be required to post a bond on the exporter's behalf, if a sample of the export grain is taken by the FDA.

Dealing with U.S. Food and Drug Administration Load

The FDA takes random samples of imported grain to test for such things as mould and chemical pesticide residues. Most of the residue tolerance levels are high enough that whole grain is not affected.

If the FDA requests a sample of the grain, the load will be sampled and a bond equal to three times the value of the shipment must be posted! If a bond is not posted, the load will be returned to Canada.

Once a bond is posted, the load can move to its destination. However, at its destination, the load must be held intact (identity preserved and special-binned) until the FDA rejects it or releases it. Releasing the product may take up to five days, depending on how busy the analysis lab is, but often takes less time than that.

U.S. Customs Brokers prefer to use Single Entry Bonds (a security bond posted on the exporter's behalf) on FDA requests instead of utilizing their own bond. A Single Entry Bond is usually written up for three times the value of the FDA-held grain. At the time of writing, this single entry bond costs approximately US\$2.50 to US\$6.00 per \$1,000 of bond liability. However, multi-time exporters can purchase a continuous bond which costs less and is more convenient. An entry bond is a good example of why a Power of Attorney should be signed. A U.S. Customs Broker, with no Power of Attorney, would not be able to provide this entry bond service and an export shipment would be delayed or, possibly, refused entry into the U.S.

U.S. Customs Brokers

There are many U.S. Customs Brokers operating at various U.S. Ports of Entry. **However, it is likely that most export shipments from Alberta will occur at Sweetgrass, Montana, because it is the only Commercial Centre Port of Entry between Alberta and Montana.**

Customs Brokers at Sweetgrass either have offices or affiliates at other border crossings or else have working relationships with other Brokers, if exporters need assistance at other Ports of Entry.

Contacting one of the Customs Brokers at Sweetgrass will likely be the most convenient for an Alberta exporter. Also, some Customs Brokers at Sweetgrass are already clearing grain export shipments.

Note: Appendix 3 gives a list of U.S. Customs Brokers operating at the Port of Sweetgrass at the time of writing.

Section 6

Finding a U.S. Buyer

Financial Performance of U.S. Grain Buyers

U.S. grain buyers are either farmer-owned cooperatives or privately owned companies. Most states require that each grain buyer be licensed as a warehouse or grain buyer and bonded or carry an equivalent of a bond.

The warehouse or buyer license may be issued by either the U.S. federal government or the state government. Specific federal or state requirements for the license include:

- A comprehensive annual net worth for the business.
- Bonding requirements to cover the value of stored grain that is covered by warehouse receipts, scale tickets or other evidence to prove producer-owned grain in the facility.
- Some states have an indemnity (insurance) fund to cover any other additional losses.

Federal warehouse licensing does not include an indemnity fund.

Note: Canadian grain delivered and sold to a U.S. facility, but not paid for, is considered to belong to the facility and the seller is an unsecured creditor. **That is why it is so important for a Canadian exporter to carry out thorough due diligence with a potential buyer. A Canadian seller, who has not received payment for his or grain, should contact the buyer's state Department of Agriculture.**

Below is a list of states, located south of Alberta, that have web sites listing licensed and bonded grain buyers:

- Idaho Department of Agriculture, Licensed Dealers and Warehouses:
<http://www.idahoag.us/Categories/Warehouse/indexWarehouse.php>
- Montana Department of Agriculture, Commodity Dealer and Warehouse Licensing:
<http://agr.mt.gov/agr/Business/DealersWarehouses/>

More information on U.S. elevator Financial Performance requirements is available in Section 7 (Page 28) of the Canadian Grain Producer Frequently Asked Questions (FAQs) document at: <http://canada-usgrainandseedtrade.info/>.

U.S. Grain Buyer Trade Associations

U.S. grain buyers belong to trade associations that provide information for both grain buyers and sellers. These associations also provide information on trade rules and official document requirements. Trade association web sites useful for potential Canadian exporters are:

- National Grain and Feed Association: www.ngfa.org/
- Pacific Northwest Grain and Feed Association, Idaho, Montana, Oregon and Washington:
<http://www.pnwgfa.org/>
- California Grain & Feed Association, <http://www.cgfa.org/>

Montana Grain Trade

A partial list of the Montana Grain Trade is available on the Montana Wheat and Barley Committee web site at:

http://wbc.agr.mt.gov/wbc/Buyers/Merchandiser_List/Montanagrainsandflourmills.html .

Another longer list of Montana grain elevator is available at:

http://www.farmnetservices.com/farm/Grain_Elevators/MONTANA_GRAIN_ELEVATORS/63-0.html .

U.S. Requirement to Buy Canadian Grain

Generally, there is no legal requirement for a U.S. buyer to buy grain from anyone.

Make sure that the U.S. grain buyers you are talking to will accept Canadian-grown grain. One producer-owned co-operative indicated, at the time of writing, that it will not accept Canadian-grown grain.

Companies That May Be of Assistance Exporting Grain

Appendix 4 contains a list of companies operating in Alberta that are known to be involved with exporting grain to the U.S. The list is, by no means, complete.

Note: Anyone, considering exporting grain, should always use sound, practical business practices before committing to an export sale. It is essential that producer-exporters carry out due diligence, including checking proper references, running credit checks, etc., before doing business with any unfamiliar company, especially in an export market.

Grain Companies Licensed by the Canadian Grain Commission (CGC)

Some licensed Canadian grain dealers and/or primary elevators may be able to help producers find export markets in the U.S. Some may also be able to help with the actual exporting of the grain or provide transloading services, as well.

An up-to-date list of all CGC-licensed companies can be viewed on the CGC web site at:
<http://www.grainscanada.gc.ca/licensee-licence/licensed-agrees-eng.htm>

There are five classes of CGC licenses. The CGC license descriptions are:

1. **Grain dealer** – A grain dealer is licensed to carry on business, who for reward, on their own behalf or on behalf of another person, deals in or handles western Canadian grain.
2. **Primary elevator** – A primary elevator means an elevator the principal use of which is the receiving of grain directly from producers for either or both storage and forwarding.
3. **Process Elevator** – Process elevator means an elevator the principal use of which is receiving and storing of grain for direct manufacture or processing into other products.
4. **Terminal elevator** – Terminal elevator means an elevator the principal uses of which are the receiving of grain upon or after the official inspection and official weighing of the grain and the cleaning, storing and treating of the grain before it is moved forward.
5. **Transfer elevator** – Transfer elevator means an elevator the principal use of which is the transfer of grain that has been officially inspected and officially weighed at another elevator.

Some CGC-licensed companies have web sites. Companies, with web sites, are shown on the CGC list of licensed companies.

U.S. Grain and Feed Associations

Note: Some state grain and feed associations offer “Grain Warehouse” and “Grain Buyer” bonds for their members as required by state and federal laws.

The Pacific Northwest Grain and Feed Association

The PNWGFA produces a comprehensive directory of U.S. grain users, feed grain producers, merchandisers and handlers in the states of Idaho, Montana, Oregon and Washington. The Directory also gives a complete list of other state grain and feed industry directories.

The Directory costs US\$50.00 for association members and \$150.00 for non-members. It can be ordered by phoning the Association at 503-227-0234 or by writing to:

Pacific Northwest Grain & Feed Association
Suite 1730, 200 SW Market St.
Portland, OR 97201
Web site: <http://www.pnwgfa.org/>
E-mail: pnwgfa@pnwgfa.org

Other Northern U.S. Grain and Feed Associations

North Dakota Grain Dealers Association
Suite A
5151 23rd St. S.
Fargo, ND 58102-4985
Phone: 701-235-4184
Web site: <http://www.ndgda.org/>

- NDGDA produces the "*Directory of Licensed and Bonded Country Elevators in North Dakota*" which may be very useful for finding U.S. grain buyers.

South Dakota Grain and Feed Association
320 E. Capitol Avenue,
Pierre, SD 57501
Phone: 605-224-2445
Web site: <http://www.sdgfa.org/>

Minnesota Grain and Feed Association
Suite 200
3470 Washington Drive
Eagan, MN 55122
Phone: 651-454-8212
Web site: <http://www.mgfa.org/>

Northern U.S. Grain Elevators

Another list of U.S. grain elevators is at:
http://www.farmnetservices.com/farm/Grain_Elevators/52-0.html

Section 7

Required Documentation for Shipping Grain to the U.S.

Grain exports to the U.S. require at least four documents to clear U.S. Customs and Border Patrol (CBP). They include:

- 1) A Scale Ticket.
- 2) A correct commercial invoice or a U.S. CBP invoice.
- 3) Food and Drug Administration – Prior Notice
- 4) Automated Commercial Environment (ACE) e-Manifest

A Bill of Lading is not required by U.S. CBP but it is useful since it establishes ownership of the product or cargo.

Note: In the past, a NAFTA Certificate of Origin was required to move grain to the U.S. That requirement ended on September 1, 2012.

Always double check with your U.S. Customs Broker to make sure there has been no U.S. documentation changes since this writing. The required U.S. documents can be obtained from or completed by your U.S. Customs Broker when requested.

Note: Never complete the above required forms with a red pen or in any color, such as orange or pink that is close to red.

The most important part of exporting is making sure all necessary documentation is completed properly. Not completing all the documents properly can result in increased delays and extra costs at the border and, possibly, refusal of entry into the U.S.

If all of the above documents are completed correctly, your shipment should clear U.S. CBP easily.

Completing the required documents by an inexperienced exporter is not a place to save exporting costs! Detailed, neatly prepared invoices and documentation are an absolute must. Make sure you select a U.S. Customs Broker who is familiar with dealing with exporting your product.

Arrange for a phone or in-person interview with more than one Customs Broker well in advance of your first shipment. Do not be afraid to question the brokers on all the necessary procedures and documentation. A Broker will, or should be, very willing to help an exporter. A U.S. Customs Broker will be one of an exporter's best investments in this line of marketing. Most problems that occur in clearing U.S. CBP are a result of improper and incomplete documentation.

After an exporter completes the export process, thoroughly review the Broker's invoicing to make sure it is correct.

Required U.S. CBP Documents for U.S. Grain Imports

Document 1 – Scale Ticket

Producers exporting their grain into the U.S. must have a scale ticket accompanying each load to prove the net amount of the product.

Document 2 - U.S. CBP Invoice or U.S. Customs Broker Commercial Invoice

U.S. CBP or U.S. Customs Broker Invoice is preferred since both have all the information needed by U.S. CBP. A U.S. CBP invoice includes places to notify the Customs Broker of certain details of the transaction as well as all the charges included in the agreed price.

To be valid, an invoice issued by a Canadian seller to a buyer in the U.S. must show all the same information as a U.S. CBP Invoice, even if it isn't laid out the same way as a U.S. CBP Invoice.

A U.S. CBP invoice, or equivalent, should accompany the trucker to the border. This form has all the necessary information required by U.S. CBP. The importance of a proper invoice cannot be over-emphasized. Your U.S. Customs Broker will be useful in helping you complete this form.

The next page shows an example of an invoice acceptable to U.S. CBP provided by a particular U.S. Customs Broker. All Customs Brokers will have a similar form.

Document 3 – FDA Prior Notice

This document must be completed electronically. It can be completed by the exporter or by an exporter's U.S. Customs Broker. The exporter's merchandise must always be released by the FDA even if FDA doesn't take a sample of the grain. If FDA does take a sample, the exporter's U.S. Customs Broker will purchase a bond, on the exporter's behalf, for three times the value of the load, if the exporter does not already have a Continuous Bond in effect. A U.S. Customs Broker cannot purchase the bond unless the exporter has already signed a Power of Attorney.

If the FDA samples the grain, the exporter's carrier may still be able to proceed across the border with the grain and deliver it to the buyer. However, the load must remain intact (identity preserved and/or special binned), until the exporter has received a release from the FDA. The FDA will notify the exporter's U.S. Customs Broker when the load is released. Contact your Customs Broker to find out load release time.

If an exporter has not completed a signed Power of Attorney, the U.S. Customs Broker will not be able to operate on the exporter's behalf. This may delay final shipment until a bond is posted or the exporter receives a release from the FDA.

Note: All of the above instructions about FD 701 also apply to U.S. importers if the grain is owned by the importer at the time it passes through the U.S. Port of Entry.

Document 4 – ACE e-Manifest

An ACE e-Manifest is required for all commercial movement through a U.S. Port of Entry. E-manifests provide U.S. CBP with information about the cargo, the crew, the type of truck and equipment and shipment details. It allows truck processing to begin before the truck arrives at the Port.

The e-Manifest must be submitted electronically by computer.

A trucker driving his own truck, hauling his own product, can have a U.S. Customs Broker file the e-Manifest for a small fee. It is recommended that the truck-owner provide the Customs Broker with the necessary info to complete the filing before the truck reaches the Port of Entry.

Most commercial truckers **must** submit e-Manifests to U.S. CBP one hour before arriving at a U.S. land Port of Entry. Commercial truckers that are participants in the "Free and Secure Trade Program" must submit the e-Manifest 30 minutes before arriving at the Port.

Truck carriers can file e-manifests at no cost via the Web-based ACE Secure Data Portal. Farmer-truckers or commercial truckers can get more information or apply for an ACE Portal Account at: http://www.cbp.gov/xp/cgov/trade/automated/modernization/ace_app_info/

Power of Attorney

Providing a Power of Attorney (PA) to a U.S. Customs Broker is strongly recommended. The example, below, is provided by U.S. CBP.

1. THIS FORM MUST BE TYPED. 2. DO NOT ALTER THIS FORM. 3. ORIGINAL TO BE SUBMITTED TO CBP. (See Option explained in Instruction No. 2.)		DEPARTMENT OF HOMELAND SECURITY U.S. Customs and Border Protection CORPORATE SURETY POWER OF ATTORNEY <i>Any text that scrolls will not print</i>				OMB No. 1651-0050 Exp. 03/31/2014 CBP USE ONLY DATE RECEIVED EFFECTIVE DATE	
<input type="checkbox"/>	GRANT (Instruction No. 3a.)	<input type="checkbox"/>	CHANGE to Grant on file (Instruction No. 3b.)	<input type="checkbox"/>	REVOCATION. The below-described powers previously granted are hereby revoked. (Instruction No. 3c.)		
GRANTEE:		NAME <input type="checkbox"/> This is a name change		ADDRESS <input type="checkbox"/> This is an address change			
		SOCIAL SECURITY NUMBER					
GRANTOR:		SURETY COMPANY'S CORPORATE NAME		SURETY NO.	STATE UNDER WHOSE LAWS ORGANIZED AS A SURETY		
Port code(s) for CBP port(s) in which authorized to do business and limit on any single obligation -OR- port(s) being added to the original grant.							
PORT	LIMIT	PORT	LIMIT	PORT	LIMIT	PORT	LIMIT
Grantor appoints the above-named person (Grantee) as its attorney in fact to sign its name as surety to, and to execute, seal, and acknowledge any bond so as to bind the surety corporation to the same extent as if done by a regularly elected officer, limited only to the extent shown above as to Customs and Border Protection port and amount on any single bond obligation. This grant, or change to a grant on file, or revocation, as specified, shall become active on the effective date shown provided the CBP Form 5297 is received at a port office 5 days before the effective date shown; otherwise the specified actions will be come active at the close of business 5 working days after the date of receipt at the port office.							
In witness whereof, the said Grantor, by virtue of authority conferred by its Board of Directors, has caused these presents to be sealed with its corporate seal and attested by any two principal officers.		Date Attested		Name and Title		Name and Title	
		Use a facsimile of corporate seal, and not impression seal.		Signature:		Signature:	

Distribution: 3 copies

CBP Form 5297 (06/08)

Customs Brokers usually have a company-specific PA that they use. It must include the basic language from the U.S. CBP PA but Brokers can include terms and conditions specific to their company.

Note: It is best for an exporter to contact his/her broker to prepare a PA since there are different requirements depending on how the exporter operates. For example, requirements and certifications may be different for partnerships and limited liability partnerships in order for the PA to be considered valid by U.S. CBP.

Final Instructions for Completing All Documents

Post Entry Audits

U.S. CBP can, and does, make post entry audits. If U.S. CBP finds errors, either due to carelessness or omission, it can assess penalties according to the type and severity of the offence. Penalties are not normally assessed on voluntary disclosures before an audit, except in the case of fraud. Exporters should check and re-check the complete export documentation, if it is not being completed by a Customs Broker, for possible errors or omissions.

Ask yourself these questions about all of your documentation, especially if you have completed the documentation yourself:

1. Has your customer agreed to pay or did your customer pay the same amount shown on the invoice given to U.S. CBP?
2. Have you correctly documented the country of origin?
3. Has the end-use of your shipment been properly documented so proper duty assessment can be made?
4. Did you check and re-check all computations and extensions for errors?
5. Is the ultimate consignee (or buyer) clearly identified?

6. If you become aware of any errors or changes to your documentation, advise your U.S. Customs Broker immediately. Remember, no one likes surprises. Any additional duty or refunds due can be applied for without penalty.

Note: U.S. CBP may charge a penalty for negligence or gross negligence any time changes are made to any documentation after the documents are initially filed. U.S. CBP may agree to lessen the penalty if the corrections are file voluntarily before the errors or omissions are discovered by U.S. CBP.

Section 8

U.S. Import Phytosanitary and Other Requirements

The word “phytosanitary” refers to the health of plants and of parts of plants, such as seeds. More specifically, phytosanitary refers to a plant product’s freedom from disease and/or pests of any kind.

Phytosanitary requirements of U.S. imports are established by the USDA Animal and Plant Health Inspection Service (APHIS).

Exporting Grain to the U.S. for Human Consumption or Livestock Feed

U.S. Department of Agriculture (USDA) APHIS regulations require that all imported seeds, including grain (and plants), must be inspected at a Port of Entry.

U.S. Customs and Border Protection (CBP) staff inspects imported seeds to make sure they are free from plant pests and diseases not known to occur in the U.S. This requirement for inspection is the part of the reason why exporting grain through non-commercial Permit Ports requires applications with such a long lead time before the grain is expected to pass through the Port.

Grain cargos that contain certain insect pests, evidence of disease or weed seeds may be turned back to Canada, depending on what is found.

U.S. Entry Requirements for Prairie-Grown Grains, Not for Seed Purposes

Crop	Entry Condition
Wheat	No phytosanitary certificate. Inspection at Port of Entry
Barley	No phytosanitary certificate. Inspection at Port of Entry
Corn	If not screenings, requires import permit & inspection at Port of Entry
Oats	No phytosanitary certificate. Inspection at Port of Entry
Field Peas	No phytosanitary certificate. Inspection at Port of Entry
Lentils	No phytosanitary certificate. Inspection at Port of Entry
Chickpeas	No phytosanitary certificate. Inspection at Port of Entry
Faba Beans	No phytosanitary certificate. Inspection at Port of Entry
Soybeans	No phytosanitary certificate. Inspection at Port of Entry
Mustard	No phytosanitary certificate. Inspection at Port of Entry
Canaryseed	No phytosanitary certificate. Inspection at Port of Entry
Screenings	Requires declaration “screening for processing or manufacture, not for seeding”. Inspection at Port of entry.

Exporting Seeds for Planting to the U.S.

A USDA APHIS document dated March 28, 2012 makes the following two statements:

- For Canadian seed, a seed analysis certificate (PPQ form 925 or CFIA form 5289) may be used in lieu of a phytosanitary certificate. One certificate per lot is required.
- “Obscured seed: Seed that is coated or pelleted, or embedded in a manner that obscures visibility (e.g. seed tape, seed mats) is prohibited because it cannot be inspected.”
- Certain other seeds for planting can enter the U.S. under a written permit and treatment is required.

Additional information about U.S. phytosanitary import requirements is available by calling APHIS at 1-877-770-5990.

Section 9

U.S. Grain Grading and Purchasing Standards

It is important for exporters to understand official U.S. grain standards before exporting grain and oilseeds to the U.S. Most prospective U.S. buyers prefer to buy on official U.S. grading standards, not on Canadian grading standards.

The official U.S. grading system for grains falls under the *U.S. Grain Standards Act* and the *Agricultural Marketing Act of 1946*. The U.S. Federal Grain Inspection Service (FGIS), a part of the USDA Grain Inspection Packers and Stockyards Agency (GIPSA), administers official grain grading and weighing in the U.S.

The U.S. FGIS helps everyone in the marketplace with sampling, inspection, weighing and storage assessment services to accurately describe the quality and amount of the grain being bought and sold.

Not all official grain inspection (grading) and weighing is carried out by FSIS personnel. Some official inspection and weighing services are carried out by U.S. FGIS-authorized agencies or laboratories.

A list of FGIS offices or authorized agencies is located at:
www.gipsa.usda.gov/fgis/svc_provid/providers.html

More details on the Official U.S. (Grading) Standards for Grain are available at:
www.gipsa.usda.gov/fgis/standproc/usstands.html

The U.S. grade standards for barley, wheat and oats are shown, below. Exporters can use these Standards as guidelines, but remember that it is up to the buyer to decide on the quality of grain he/she wishes to buy. While your grain may not meet some of these U.S. Standards for Grain requirements, it may still be suitable for the needs of the buyer.

USDA Standards for Grain – As of August, 2012

§ 810.204 Grades and grade requirements for Six-rowed Malting barley and Six-rowed Blue Malting barley.

Grade	Minimum limits of--			Maximum limits of--				
	Test weight per bushel (pounds)	Suitable malting types (percent)	Sound barley ^{1/} (percent)	Damaged kernels ^{1/} (percent)	Foreign material (percent)	Other Grains (percent)	Skinned and broken kernels (percent)	Thin barley (percent)
U.S. No. 1	47.0	95.0	97.0	2.0	0.5	2.0	4.0	7.0
U.S. No. 2	45.0	95.0	94.0	3.0	1.0	3.0	6.0	10.0
U.S. No. 3	43.0	95.0	90.0	4.0	2.0	5.0	8.0	15.0
U.S. No. 4	43.0	95.0	87.0	5.0	3.0	5.0	10.0	15.0

^{1/} Injured-by-frost kernels and injured-by-mold kernels are not considered damaged kernels or considered against sound barley.

NOTES: Malting barley shall not be infested in accordance with § 810.107(b) and shall not contain any special grades as defined in § 810.206. Six-rowed Malting barley and Six-rowed Blue Malting barley varieties not meeting the requirements of this section shall be graded in accordance with standards established for the class Barley.

§ 810.205 Grades and grade requirements for Two-rowed Malting barley.

Grade	Minimum limits of -			Maximum limits of--			
	Test weight per bushel (pounds)	Suitable malting types (percent)	Sound barley ^{1/} (percent)	Wild oats (percent)	Foreign material (percent)	Skinned and broken kernels (percent)	Thin barley (percent)
U.S. No. 1	50.0	97.0	98.0	1.0	0.5	5.0	5.0
U.S. No. 2	48.0	97.0	98.0	1.0	1.0	7.0	7.0
U.S. No. 3	48.0	95.0	96.0	2.0	2.0	10.0	10.0
U.S. No. 4	48.0	95.0	93.0	3.0	3.0	10.0	10.0

^{1/} Injured-by-frost kernels and injured-by-mold kernels are not considered damaged kernels or considered against sound barley.

NOTES: Malting barley shall not be infested in accordance with § 810.107(b) and shall not contain any special grades as defined in § 810.206. Two-rowed Malting barley varieties not meeting the requirements of this section shall be graded in accordance with standards established for the class Barley.

§ 810.206 Grades and grade requirements for barley.

Grade	Minimum limits of		Maximum limits of				
	Test weight per bushel (pounds)	Sound barley (percent)	Damaged kernels ^{1/} (percent)	Heat-damaged kernels (percent)	Foreign material (percent)	Broken kernels (percent)	Thin barley (percent)
U.S. No. 1	47.0	97.0	2.0	0.2	1.0	4.0	10.0
U.S. No. 2	45.0	94.0	4.0	0.3	2.0	8.0	15.0
U.S. No. 3	43.0	90.0	6.0	0.5	3.0	12.0	25.0
U.S. No. 4	40.0	85.0	8.0	1.0	4.0	18.0	35.0
U.S. No. 5	36.0	75.0	10.0	3.0	5.0	28.0	75.0

U.S. Sample Grade:

U.S. Sample grade shall be barley that:

- (a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or
- (b) Contains 8 or more stones or any number of stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 8 or more cocklebur (*Xanthium* spp.) or similar seeds singly or in combination, 10 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1-1/8 to 1-1/4 quarts of barley; or
- (c) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or
- (d) Is heating or otherwise of distinctly low quality.

^{1/} Includes heat-damaged kernels. Injured-by-frost kernels and injured-by-mold kernels are not considered damaged kernels.

§ 810.2204 Grades and grade requirements for wheat.

(a) Grades and grade requirements for all classes of wheat, except Mixed wheat.

Grading factors	Grades U.S. Nos.				
	1	2	3	4	5
Minimum pound limits of:					
Test weight per bushel					
Hard Red Spring wheat or White Club wheat	58.0	57.0	55.0	53.0	50.0
All other classes and subclasses	60.0	58.0	56.0	54.0	51.0
Maximum percent limits of:					
Defects:					
Damaged kernels					
Heat (part of total)	0.2	0.2	0.5	1.0	3.0
Total	2.0	4.0	7.0	10.0	15.0
Foreign material	0.4	0.7	1.3	3.0	5.0
Shrunken and broken kernels	3.0	5.0	8.0	12.0	20.0
Total ^{1/}	3.0	5.0	8.0	12.0	20.0
Wheat of other classes: ^{2/}					
Contrasting classes	1.0	2.0	3.0	10.0	10.0
Total ^{3/}	3.0	5.0	10.0	10.0	10.0
Stones	0.1	0.1	0.1	0.1	0.1
Maximum count limits of:					
Other material in one kilogram:					
Animal filth	1	1	1	1	1
Castor beans	1	1	1	1	1
Crotalaria seeds	2	2	2	2	2
Glass	0	0	0	0	0
Stones	3	3	3	3	3
Unknown foreign substances	3	3	3	3	3
Total ^{4/}	4	4	4	4	4
Insect-damaged kernels in 100 grams	31	31	31	31	31

U.S. Sample grade is Wheat that:

- (a) Does not meet the requirements for U.S. Nos. 1, 2, 3, 4, or 5; or
- (b) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor) or
- (c) Is heating or of distinctly low quality.

^{1/} Includes damaged kernels (total), foreign material, shrunken and broken kernels.

^{2/} Unclassed wheat of any grade may contain not more than 10.0 percent of wheat of other classes.

^{3/} Includes contrasting classes.

^{4/} Includes any combination of animal filth, castor beans, crotalaria seeds, glass, stones, or unknown foreign substance.

Note: The USDA GIPSA is proposing a change to the U.S. Standards for Hard White wheat and a reduction to limits for shrunken and broken kernels for all types of wheats for the #1 and #2 grades. Number 1 wheat would have an upper limit of 2% shrunken and broken kernels and #2 wheat would have an upper limit of 4%. At time of writing, no date for implementing the proposed changes has been announced.

§ 810.1004 Grades and grade requirements for oats.

Grade	Minimum limits-		Maximum limits-		
	Test weight per bushel (pounds)	Sound oats (percent)	Heat-damaged kernels (percent)	Foreign material (percent)	Wild oats (percent)
U.S. No. 1	36.0	97.0	0.1	2.0	2.0
U.S. No. 2	33.0	94.0	0.3	3.0	3.0
U.S. No. 3 ^{1/}	30.0	90.0	1.0	4.0	5.0
U.S. No. 4 ^{2/}	27.0	80.0	3.0	5.0	10.0

U.S. Sample grade--
 U.S. Sample grade are oats which:

(a) Do not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or

(b) Contain 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 8 or more cocklebur (*Xanthium* spp.) or similar seeds singly or in combination, 10 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1-1/8 to 1-1/4 quarts of oats; or

(c) Have a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or

(d) Are heating or otherwise of distinctly low quality.

^{1/} Oats that are slightly weathered shall be graded not higher than U.S. No. 3.
^{2/} Oats that are badly stained or materially weathered shall be graded not higher than U.S. No. 4.

Other U.S. FGIS Services

Other inspection services for quality that FGIS, or its authorized agencies can do, are available at: www.gipsa.usda.gov/fgis/insp_weigh/testinggrade.html

U.S. and Canadian Protein Measurement

In Canada, wheat protein content is reported based on 13.5% moisture. In the U.S. wheat protein is based on a 12% moisture basis. This difference in moisture content will mean that wheat measured using the U.S. system will show protein that is about 0.2% higher than the same wheat measured using the Canadian system. So wheat measured as 13.5% protein, using the 13.5% Canadian moisture standard, would measure at very close to 13.7% protein using the 12% U.S. moisture standard.

Both Canada and the U.S. report barley protein content on a dry matter (0% moisture) basis, so a sample would show the same protein content in both countries.

U.S. Buying on Specification as well as U.S. Standards for Grain

U.S. grain buyers can and often do buy on specifications that are different from the U.S. Standards for Grain. Often, buyer specifications for wheat and barley and other crops, are related to a quality aspect that the buyer is particularly interested in.

There are certain standards which many purchasers look for when buying grain. The primary criteria are grade and test weight.

For example, U.S. companies may buy barley graded U.S. #2 but with 46 lb./bu. test weight and U.S. #2 oats with a 38 lb./bu. test weight. Those test weights are above the minimum U.S. grade standards for #2 for both grains. U.S. industry buying standards are based loosely on the official USDA standards but vary according to the buyer's intended usage.

No official moisture standard exists in the U.S. Standards for Grain. However, the industry has established a maximum moisture content of 13.5% for wheat, oats and barley. Generally, there are no moisture premiums for grain drier than 13.5% unless the buyer specifies differently. Moisture is a concern in hot, humid areas like California, where high moisture levels can cause storage concerns for grain as well as for manufactured feeds.

U.S. and Canadian Bushel Differences

One of the differences between Canadian grading and U.S. Grain Standards is the standardized cup used for testing bushel weight. The U.S. uses a "Winchester" cup that is smaller in volume than the "Avery" cup used in Canada. Therefore, for example, 48 lb./bu. barley in Canada will weigh 46-47 lbs. in the U.S.

It is important to remember this Winchester vs. Avery bushel difference when determining your potential buyer's quality requirements. U.S. buyers, who are familiar with this difference, use the rule of thumb of 1 to 1.5 lbs. per bushel less with the "Winchester" cup bushel weight compared to the "Avery" bushel weight tested in Canada.

More details on weight conversion are included in the Appendix under Conversions – Weights and Currencies.

Example of the Importance of Test Weight

(Material, below, used with permission, from the Canadian Grain Commission web site at: <http://www.grainscanada.gc.ca/guides-guides/weight-poids/itw-rps-eng.htm#c> Users are responsible for checking the CGC's website for any updates.)

A bushel of wheat in Canada may not be equal to a bushel of wheat in the United States. The Winchester bushel volume is smaller than the British bushel volume that is used to calculate the Avery bushel used in Canada.

In addition to the difference in volume, there is a difference in how the effect of grain compaction is treated. In Canada, determining test weight takes compaction into account, and conversion of the official metric test weight measure to pounds per bushel is based on the Imperial bushel, and is referred to as pounds per bushel-Avery. Conversion of the official metric test weight measure to pounds per bushel based on the Winchester bushel does not take compaction into account, and is referred to as pounds per bushel-Winchester. Therefore, it is critical to make sure which type of bushel is being used when making formal grain transactions.

If you are selling grain by contract to a company in the United States, test weights specified in the contract are in pounds per bushel. Usually, this means pounds per Winchester bushel. However, if you get a test weight measurement for your grain at a primary elevator in Canada, it will be in pounds per Avery bushels. The difference between the two bushels could mean a loss for the seller.

Example: Let's say a U.S. contract for Select CW two-row barley specifies a test weight of 45.5 lb/bu. The contract means that it is 45.5 pounds per Winchester bushel (45.0 lb/W bu). The equivalent test weight in the Canadian system is 48.8 pounds per Avery bushel (lb/A bu). Therefore, any shipment of barley with a Canadian test weight of less than 48.8 lb/A bu. will not meet the United States contract specifications of 45.0 lb./Winchester bushel.

Conversely, a barley Canadian test weight of 45.5 lb/ A bu. is equivalent to 42.4 lb/W bu. so the barley would not meet a specification for 45.5 lb/ W bu.

Example: Another example of the difference between Winchester and Avery bushel weights has to do with exporting oats to the U.S. When U.S. buyers calculate the number of bushels unloaded, they use the scale weights and use 32 lbs. per bushel for the conversion. Even if your buyer has requested minimum weight of 40 lbs./bu. when purchasing from the seller, the buyer will use 32 lbs./bu. as the conversion factor. This means U.S. documents will show more bushels unloaded than the seller expected, but the buyer will still pay the seller the price quoted for the higher test weight.

Note: Some U.S. grain buyers quote prices as dollars per bushel (\$/bu.) while others quote prices, in dollars per hundred weight (\$/cwt) especially for feed barley. A quote in \$/cwt is a price for 100 pounds of the product.

Section 10

Transportation Considerations for Exporting Grain to the U.S.

Regardless of whether the exporter is planning to truck his/her own grain, use a commercial trucking firm, ship by rail or transloading in Alberta or in Vancouver, the exporter must do his/her transportation costing homework before accepting a buyer's bid or making an offer. That costing needs to be done to be sure all freight costs will be covered in the deal.

Moving Grain to the U.S. by Truck

If you decide to truck your own grain to the U.S., you will need to know each state's regulations regarding:

- **Maximum gross vehicle weight,**
- **Maximum axle weights,**
- **Bridge laws – weight restrictions and minimum and maximum length and minimum distance between axles.**
- **Fuel emission standards**
- **Use of marked or coloured fuel.**

Important: If the truck will be travelling in more than one state, the driver/owner must be aware of load, total weight, length and bridge restrictions in each state. Make sure the load meets the specifications of the state with the lowest gross weight, load weight, length limits or bridge restrictions.

These kinds of details are available at the U.S. Department of Transportation, Canadian-U.S. Commercial Motor Vehicle Cross-Border Operations web site at: <http://www.fmcsa.dot.gov/intl-programs/canada/index.htm>.

At the above web site, click on a U.S. state on the map to find information that relates to Commercial Motor Vehicle (CMV) operations for such items as general motor carrier information, licensing, oversize/overweight permitting, International Fuel Tax Agreement (IFTA) requirements and other important information.

Licensing, Registration and Other Details for Canadian Trucks

Driver's Licensing for U.S. Hauling

Montana recognizes Canadian driver's licenses for driving loaded trucks within the state as long as the driver's license meets the requirements of the Canadian province where the driver lives and the truck is licensed.

Driver's license requirement, for Canadian farmer-owned trucks in other states, was not confirmed.

Farm Truck Licensing for U.S. Hauling

Montana grants Canadian farmer-owned trucks, with "farm" plates, to operate there when the truck is hauling the owner's products to market or when transporting supplies from Montana back to Alberta. Canadian farm truck owners should check on truck licensing requirements for other U.S. states before hauling there.

However, Montana requires Canadian-owned farm trucks to have an annual Safety Fitness inspection and to comply with all U.S. Federal and Montana State safety standards. Canadian farm trucks also must purchase any permits that are required of any large truck.

Licensing requirements, for Canadian farmer-owned trucks in other states, was not verified.

International Registration Plan (IRP)

Canadian trucks, even if they are owned by Canadian producers and hauling the owner's grain into the U.S., must be registered with the IRP if the Gross Vehicle Weight is greater than 4500 kg or 9920 lbs. The truck must first obtain a "Safety Fitness Certificate" labeled with "Federal" operating status issued by Alberta Transportation and then register with the IRP. More information is available from the Alberta Transportation web site at:

http://www.transportation.alberta.ca/3180.htm#What_is_the_International_Fuel_Tax_Agreement__IFTA__

Coloured Fuel

Canadian producer trucks cannot use coloured diesel or gasoline to haul to the U.S. A Canadian farmer-owned truck must be purged of coloured fuel and filled with clear fuel before entering the U.S.

International Fuel Tax Agreement (IFTA)

Canadian producer trucks must be registered under the IFTA and have the correct IFTA sticker or stickers attached to their vehicles. More information on the IFTA is available by phone at:

<http://www.transportation.alberta.ca/3180.htm>, or

http://www.finance.alberta.ca/publications/tax_rebates/ifta/overview.html or

By phone at: **403-297-2920**

U.S. Department of Transportation (DOT) Registration

Canadian producer-owned trucks must be registered with the U.S. DOT if they are not hauling their own grain. More information on the International Registration Plan (IRP) is available at:

<http://www.fmcsa.dot.gov> and click on "Request PIN (USDOT PIN Docket Number)

U.S. Load Limitations, Restrictions or Requirements

U.S. roads and bridges usually have federal, state, county or city limitations or requirements for vehicles moving over them. Emergency and other (seasonal) limitations may also be put in place and enforced.

The U.S. DOT give information on truck size and weights, bridge formula weights at:

<http://ops.fhwa.dot.gov/freight/sw/index.htm>.

U.S. State web sites show such things as load and speed restrictions and tire size and towing restrictions. Montana's information is at: <http://www.mdt.mt.gov/travinfo/>

Freight Costs

Exporter freight costs will vary depending on whether you are shipping your own grain or using a commercial carrier. Commercial carrier freight charges will vary depending on the time of year, distance travelled, type of truck (hopper bottom, refrigerated van) and whether the trucker considers your load a hack-haul.

Perhaps the largest hurdle for Alberta producers is finding attractive commercial trucking rates to the U.S. Usually Prairie exporters must use commercial trucks that are able haul loads both ways to obtain reasonable freight rates. Obtaining a back-haul is especially important for a Canadian bulk truck that has hauled grain south.

Another back-haul opportunity is refrigerator or reefer vans that arrive in Alberta's major centres each week hauling fruit and vegetables from the U.S. These trucks have been used for some time to back-haul oats, oat products and other products, especially to California. The number of reefer trucks is limited and U.S. delivery is generally restricted to areas around major centres. Often special equipment may be required to load and unload reefer trucks.

Moving Grain Directly or Indirectly to the U.S. by Rail

Grain can be moved by rail to the U.S. in two ways. Grain can be moved directly to a U.S. customer by rail or it can be shipped to the Vancouver area and then transferred onto trucks for shipment to the U.S. It is common to move grain from Alberta to western states, like Washington and Oregon, by either method.

Exporting Grain Directly by Rail

A producer wanting to export grain directly to the U.S., by rail, must apply to the Canadian Grain Commission (CGC) for a producer car to ship any of the 21 grains listed in the Canada Grains Act.

The CGC allocates the rail cars but all rail networks in Canada are administered by CP Rail, CN Rail and short line railways. The railways determine exactly when the car will be spotted. CN and CP will not spot rail cars on some Prairie rail lines. Check with the two major railways to determine whether a producer car spot is available near you.

Producer car applications can be submitted directly to the CGC by a producer who wants to self-administer the car or cars. Anyone who doesn't want to self-administer a car, can apply through a Producer Car Administrator who is licensed by the CGC. Most grain companies licensed and bonded by the CGC will administer producer cars for a fee. A list of CGC licensees is available at: <http://www.grainscanada.gc.ca/licensee-licence/licensed-agrees-eng.htm>

More details on using producer cars are available from the CGC web site at: <http://www.grainscanada.gc.ca/services-services/cars-wagons/apc-dwp-eng.htm>

Ordering a Producer Car

The CGC head office is located in Winnipeg.

- Mail:
 - Canadian Grain Commission
600-303 Main Street
Winnipeg, Manitoba R3C 3G8
- General CGC e-mail: contact@grainscanada.gc.ca
- Phone (toll free): 1-800-853-6705
- CGC Web site: <http://www.grainscanada.gc.ca/index-eng.htm>

- **CGC Producer Car Unit:**
 - Barry Daciw – 204-983-3368
 - Victor Dailey – 204-984-2079
- **CGC Producer Car Hours: 7:30 a.m. to 4:00 p.m. Winnipeg (Central) Time.**

At the time of writing, the application fee for a producer car is \$20 per car, but may be increased. In the case of a producer car shipped to the U.S., no CGC Terminal Elevator Outturn document will be issued as is normally the case for cars unloaded at Thunder Bay or Vancouver. The car will have to be weighed by railway scales or at unload to determine the actual weight of the grain shipped. This weight will be used for payment, freight invoicing and for customs purposes.

The lead time for ordering producer cars, for U.S. shipment, should usually be no longer than several weeks since the car will only be allocated to a proven sale to a U.S. destination. Make sure you include the destination, buyer's name, address and phone number, along with the proper spotting and routing information for the railway.

As well, you will likely have to open an account with the railway and/or pay the railway cash when the car is released for movement after it is loaded. Check the current policy of the railway regarding these matters before you enter into any sales agreement.

Important: Be sure to order the car early enough to allow enough time for the car to reach your buyer when the grain is required.

Transshipment – Combined Rail and Truck Shipment

If grain is to be transshipped, it is railed to the Vancouver area where contents of the rail cars are then transferred onto trucks for trans-shipment to the U.S. There is often a greater opportunity for truck back-hauls between Vancouver and U.S. points than between Alberta and the U.S.

Railing grain to Vancouver, in a producer car, and then trucking to the final destination requires an additional cost "transloading". Transloading means unloading rail car contents onto trucks. Trans-loading requires a significant amount of co-ordination to have trucks available to unload rail cars in a timely fashion, to avoid "demurrage" costs on rail cars.

The Vancouver area has several grain merchants who are involved in marketing grain to U.S. buyers. They have access to transloading facilities. Although a producer/exporter may be able to conduct this type of business on his/her own, it is strongly recommended that he/she market to one of the grain merchandisers listed in Section 9 of this publication. Very few of these companies would likely be willing to allow use of their sidings and/or transloading facilities, even for a fee, since they are already heavily utilized.

Note: The lead time required for combined train/truck shipment to the U.S. is, in most cases, much longer than if the grain were trucked directly to the buyer from Alberta.

There are a very few licensed grain merchants in southern Alberta that also have transloading facilities.

Other Combined Truck and Rail U.S. Shipment

Prairie grain business has developed through elevators in northern Montana. Canadian grain is trucked to a Montana elevator and then railed from there to points in the U.S. southwest. The economics of this depends on obtaining competitive freight rates from a U.S. railroad and competitive trucking rates. Competitive rail rates usually means multi-car shipments of at least 50 cars. In the past, U.S. elevator companies were doing this business using Canadian grain companies to acquire the grain.

Note: A list of mainline railway companies and their contact information is available in the Appendix Part 5. A partial list of trucking companies that haul bulk grain to the U.S. is also available in Part 5 of the Appendix.

Section 11

U.S. Ports of Entry

There are 329 official U.S. Customs and Border Protection (CBP) Ports of Entry into the U.S. A list of all U.S. (CBP) offices, sorted by state, is available at:

<http://www.cbp.gov/xp/cgov/toolbox/contacts/ports/>

Not all U.S. CBP Ports of Entry are at actual Canada/U.S. border crossings. Some are located a short distance inside the U.S.-Canada Border or at airports within the U.S.

Montana Ports of Entry

U.S. CBP offices in Montana are listed at: <http://www.cbp.gov/xp/cgov/toolbox/contacts/ports/mt/>

Only some of the Montana Ports of Entry are considered "Commercial" ports. The Port of Sweetgrass, MT, operates as a commercial port.

The Ports of Wild Horse and Del Bonita are "Permit" Ports, which means they are not intended or fully equipped for handling commercial shipments. Most Permit Ports are not serviced by local U.S. Customs Brokers.

Estimated crossing wait times, at major U.S. CBP Commercial Ports, are available at: <http://apps.cbp.gov/bwt/index.asp>. The web site is updated very, very regularly.

Section 12

Grain Export Marketing Tips

- **Telephone-cavass several buyers in your target market area to find out if you can compete in that market area.**
 - Determine prices of competitive products (for example, corn versus barley), buyers' interest in your product, etc. Your questions should be business-like and concise. Be considerate of each potential buyer's time and busy schedule.
- **A buyer or potential buyer is very important!**
 - Make an effort to understand his/her business and customer's needs and wants. For example, if the customer is a dairy feed manufacturer, he/she may want heavy, plump barley for rolling. Knowing what a buyer wants can make sales easier if you can meet or exceed those requirements.
- **Once you have determined market potential, you may wish to personally visit potential buyers.**
 - If you choose to take samples with you, make certain they are truly representative of your grain. Keep your two-row and six-row barley separate.
 - Samples must be declared at U.S. CBP. Each sample should be packaged separately and not exceed 2 lbs. Each package should be labelled "Product of Canada," and "Sample Only," and include bin numbers, if numbers are available.
- **Check all load restrictions, bridge laws, availability of extended weight permits and their cost before you make an offer to your buyer.**
 - Be sure to include all applicable costs such as extended weight permits (if required), freight, customs brokerage, duty, etc. when calculating your offer or when evaluating a buyer's bid.
 - An experienced commercial, international carrier will generally be aware of things like extended weight permits, their costs and if you'll need them.
- **Never assume anything!**
 - Always ask questions about what is required, what is expected and what are the normal business procedures of your buyer, your U.S. Customs Broker and your trucker, if you are using one.
 - Ask about buyer credit policies.
 - Check buyer credit references and payment procedures. etc.
- **Make sure you do a credit check on new customers**
 - Since you are dealing in a foreign market, the Canadian Grain Commission will not be able to protect you if the buyer does not pay for the grain.
 - Check with the State where you intend to ship the grain to see if the potential buyer carries a bond.
 - D & B Canada, formerly Dun & Bradstreet, an international company that provides credit references, has an office in Calgary. The D & B Canada web site is at: <http://www.dnb.ca/default.htm>.
- **More details on Grain Settlement and Payment**
 - See Section 7 (Page 28) of the Canadian Grain Producer Frequently Asked Questions (FAQs) at: <http://canada-usgrainandseedtrade.info/> .
- **Customer service is the key to the success of any sale.**

- Timeliness of delivery, neatness and accuracy of the documentation, follow-up phone calls and complete management of buyer and seller expectations are very important. This is the only opportunity you get to have your grain stand out from an otherwise generally homogeneous (very similar or identical) product. Following the above criteria diligently will help to develop a long-term, mutually beneficial, relationship with your buyer.
- **Take extra care in delivering a product that matches exactly or exceeds the quality of any samples you may have submitted.**
 - Always deliver what you promise to deliver. Extra time spent by the buyer in conducting business with you is an additional cost and, perhaps, irritation for him or her.
 - An irritated buyer could very well be a lost buyer.
- **Pay close attention to what U.S. buyers liked and disliked about past purchases of your or other Canadian grain**
 - Make sure you at least meet the expectations of what they have liked in the past, and try to improve on the dislikes.
- **Shipping "bagged" product**
 - Make sure the number of bags and weight of each bag are listed on the Bill of Lading and U.S. CBP invoice. Also include the total weight.
 - All bagged product must have a label or be stencilled in ink "Product of Canada."
- **Shipping product by rail**
 - Routing is critical because several rail lines may be involved. Double check routing information with railways and buyers. This could save you a considerable amount of time and money.
 - **Trace cars EVERY DAY!**
 - Cars are cleared through customs by your U.S. Customs Broker and the railway forwards the Bill of Lading later. Double check with the railway and follow up after the cars clear U.S. Customs and Border Protection.
- **Always be sure you are using the correct, current exchange rate when doing calculations for spot sales of a product in U.S. funds**
 - Always use a higher Canadian dollar figure than quoted by your bank to cover exchange rate fluctuations and bank service charges.
 - For example, if your bank quotes a CAD at @ 0.9800 vs the U.S. dollar, use 0.9850 in your calculations.
- **Strongly consider buying a "bank swap" through your bank to lock-in your exchange rate.**
 - Basically, a "bank swap" is contract that locks-in an exchange rate between a certain number of Canadian dollars and a foreign currency, such as the US\$.
 - A bank swap has the advantage of removing exchange rate risk for business dealings where payment may not be received by the seller until after the business arrangement has been made or after the product is delivered to the buyer.
 - Ask the bank if their quoted "bank swap" exchange rate includes all bank service charges.

Section 13

Tax Implications of Exporting Grain to the United States

Canadian farmers exporting grain to the United States should be aware of possible U.S. income and other tax considerations.

This section is intended to be a general discussion of key U.S. tax considerations. A qualified tax professional should be consulted for advice specific to the facts and circumstances of a farm operation that intends to export grain to the United States.

U.S. Federal Income Tax

A Canadian farmer, that is a non-U.S. individual or corporation, is subject to U.S. federal income tax at graduated income tax rates on income that is, or is treated as, effectively connected with a "U.S. trade or business". Although there is no specific definition of a "U.S. trade or business" under U.S. income tax law, generally any regular, continuous and considerable business activity within the United States should be viewed as a "U.S. trade or business". A U.S. income tax return may be required if a farmer is conducting regular, continuous and considerable business activity within the United States.

The U.S.-Canada income tax treaty ("the Treaty") may change the U.S. income taxation of Canadian farmers. The Treaty will permit the United States to tax such activities only to the extent that they are earned through a permanent establishment ("PE") in the United States. Generally, a PE is either a fixed place of business of a Canadian farmer within the United States, or the action by a Canadian farmer of concluding a sales contract within the United States. If Canadian farmers are treated as earning income that is effectively connected with a U.S. trade or business, but not through a PE in the United States, then that income should not be subject to U.S. federal income tax.

The claim for exemption from U.S. income taxation under the Treaty is made by filing U.S. federal income tax return on or before the fifteenth day of the sixth month after the taxpayer's fiscal year end. The filing of a U.S. income tax return also protects the farmer's ability to claim deductions against its U.S. gross income should the IRS challenge the existence of a U.S. PE. If the IRS successfully challenges that a PE exists in the United States and an income tax return has not been filed, the Canadian farmer may be subject to U.S. federal income tax on gross U.S. revenue.

State Income Tax

Generally, any taxpayer based outside of a state is subject to state income tax on business income where it is "doing business" in the state. The term "doing business" includes most in-state business activities. There are certain statutory exceptions to "doing business", primarily related to soliciting sales within these states, which require an analysis of all the facts and circumstances of the situation.

Any Canadian farmer with grain sales or other business activity within a state should contact a tax professional to discuss potential state income tax requirements. Generally, a state income tax return is due on or before the fifteenth day of the third month after the taxpayer's fiscal year end.

State Sales Tax

Most states levy a retail sales tax. In general, sales tax is collected by the seller on sales with a destination in a state. Many transactions are subject to sales tax even where the seller has minimal contact with a state. Generally, sales tax applies to retail sales to customers located in state. There are certain statutory exemptions that may be available for certain industries. Also, sales made for resale to other customers are generally exempt provided that appropriate documentation is obtained by the seller.

Any Canadian farmer with grain sales or other business activity within a state should contact a tax professional to discuss potential state sales tax requirements. Depending on the amount of sales tax liability, a sales tax return may be due as often as monthly.

This section was prepared by MNP LLP.

The information contained herein should not be considered tax advice. It is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax advisor.

Section 14

U.S. Grain Check-offs

Most U.S. states have marketing and research programs for wheat, barley and other crops paid for by check-offs from producer grain sales. These check-offs are managed by state commissions or committees, state commodity councils or by the state Department of Agriculture.

In North Dakota, for example, the wheat check-off is managed by the N. Dakota Wheat Commission. The N. Dakota barley check-off is handled by the N. Dakota Barley Council. North Dakota also has check-offs on corn, soybeans, canola, sunflower, dry peas and lentils, flax, dry beans, and potatoes.

The check-offs are usually collected at the elevator handling the first U.S. point-of-sale. Check-offs apply to producer deliveries of U.S.-grown product and to product grown outside the country and delivered by a producer to a U.S. buyer. At the time of writing, the amount of the check-off and whether or not it is refundable varies by state.

Additional Details

Additional details about U.S. check-offs are available at:

- The Canada-U.S. Grain and Seed Trade web site at: <http://canada-usgrainandseedtrade.info/>, *Canadian Grain Producer FAQ*, Page 35.
- State Departments of Agriculture web site information:
 - Montana: <http://agr.mt.gov/>
 - North Dakota: <http://www.nd.gov/ndda/news/state%E2%80%99s-commodity-groups-discuss-joint-efforts>
 - South Dakota: <http://sdda.sd.gov/Secretary/Boards/default.aspx>
- North Dakota state commissions or committees
 - N. Dakota Wheat Commission: <http://www.ndwheat.com/>
 - N. Dakota Barley Council: <http://www.ndbarley.net/>

Tips:

- Check with each potential buyer to find out how much the check-off is for the crop you intend to export to make sure to work that cost into your price calculations.
- Find out, from the potential buyer or the state governing body, whether the check-off is refundable or not.

Section 15

Other U.S. Grain Import/Export Questions

How is grain sampled at U.S. elevators when delivered by truck?

How is Canadian grain graded on delivery to a U.S. facility?

Do U.S. buyers require varietal declarations for Canadian grain?

Do U.S. buyers require documentation regarding the producer's chemical use on Canadian grain?

See Section 6 (Page 24) of the Canadian Grain Producer FAQ (Frequently Asked Questions) at: <http://Canada-usgrainandseedtrade.info/>

Where can I find information on chemicals approved in Canada but not approved in the U.S.?

The International Pesticide and Application Database (IPAD) contains information for the U.S., Mexico and Canada. It covers 42 crops and many, many active ingredients. The database, which is very easy to use, is at: <http://www.mrldatabase.com/>

Where can I find the Maximum Residue Limits (MRL) allowed for grain to be imported into the U.S.?

MRLs are at: <http://www.mrldatabase.com>

What remedies do I have if my exported Canadian grain has quality problems or is rejected upon arrival in the U.S.?

See Section 6,g (Page 26) of the Canadian Grain Producer FAQ for suggestions on how to deal with this issue at: <http://Canada-usgrainandseedtrade.info/>.

Appendix: Part I

Glossary

Bridge Laws

State or federal regulations dealing with overall weight restrictions, maximum axle weights and minimum distances between drive and trailer axles for vehicles crossing U.S. bridges. Bridge charts outlining these restrictions for each bridge are available from state departments of transportation or are often available in a motor carrier's road atlas.

Bushel

A bushel is a volume measure. There are two sizes of bushels used in North America – the Avery bushel in Canada and the Winchester bushel in the U.S.

The Avery bushel is slightly larger in volume than the Winchester bushel.

- The Avery bushel is 1.2843 cu. ft.
- The Winchester bushel is 1.244 cu.ft.

In Canada and the U.S., the number of bushels of a crop is usually calculated by dividing the total weight by an agreed upon standard weight per bushel.

The weight per Winchester bushel is shown below in the "Conversions" section.

Consignee

The person or company to whom the shipment is being consigned or sent.

Consignor

The person or company who is sending a shipment.

Conveyance

The method of transport of a product – truck, rail car, barge, ship, etc.

CWT

Hundred weight or 100 pounds. CWT is often used in the U.S. to quote prices for feed grains such as corn or barley.

Demurrage

This term refers to the charges for delayed shipment such as for ocean vessels. If the vessel is unable to sail after the allotted loading time, demurrage charges are assessed daily until the vessel can sail.

Note: These charges can also be charged by rail and trucking companies.

Exporter's Certificate of Origin:

This is a form introduced with the North American Free Trade Agreement. Shipments from Canada that are accompanied by this form qualify for lower duty assessments and Merchandise Processing Fees (MPF).

F.O.B.:

Free on Board is a marketing term which means the seller is responsible for all charges of shipment up to and including loading of the vessel, rail car, truck, etc.

For example, grain sold for "\$XXX fob truck Great Falls" means that the seller is responsible for all charges from point of origin to Great Falls. This would normally include the cost of the grain plus the cost

of freight, insurance, duty and taxes, etc. The buyer would be responsible for any unloading charges at Great Falls.

If the grain was sold “fob farm”, all charges after the truck is loaded at the farm would be paid by the buyer.

Fobbing:

This term is used by the grain trade, especially, export terminal operators and exporters. It refers to the actual act of loading a vessel, railcar or truck.

Fobbing charges are the charges for loading the vessel, railcar or truck.

Harmonized Tariff Number

The particular, unique number assigned to a product under the “Harmonized Tariff Schedule of the United States.

For example, the Harmonized Tariff Number for #1 Canadian Western Red Spring Wheat, 12.9% to 13.3% protein is “1001.99.00.12”. It has a General Duty of “0” and a Special Duty of “0”.

The “Harmonized Tariff Schedule of the United States is available at:

<http://www.usitc.gov/tata/hts/bychapter/index.htm>

Hundred Weight

One hundred pounds of a product, often shown as “CWT”.

Merchandise Processing Fees (MPF)

These are fees assessed by U.S. CBP for processing merchandise through customs. **Generally, goods exported from Canada have been exempt from MPFs since NAFTA came into effect.**

MRL

Maximum Residue Limits – the maximum allowable amount of chemical residue in a particular grain.

Outport

U.S. border crossings, which are not a designated as a commercial port, such as _____?

Power of Attorney:

It is a document, signed by the shipper or owner of an export product, allowing a U.S. Customs Broker to operate as an agent on the exporter's (or owner's) behalf.

A Customs Broker named on a customs Power of Attorney may make entry (of merchandise) on behalf of the exporter or the exporter's representative. Any person named on a Power of Attorney must be a resident of the United States who has been authorized to process, on behalf of the person or organization issuing the Power of Attorney. Either the applicable customs form or a document using the same language as the form is acceptable.

References to certain actions, which the issuer has not authorized his agent to perform, may be deleted from the form or omitted from the document.

A Customs Broker will have a procedure for filling out this form.

Single Entry Bond

This is a security bond purchased by a U.S. Customs Broker, on the exporter's (or owner's) behalf, for a specific shipment instead of using the broker's bond.

Shipments where a sample is requested by the FDA will require a bond equal to three times the value of the load. Brokers do not like to use their own bond for these shipments, hence the name, "single entry".

A Single Entry Bond is issued to protect only a single entry shipment.

Spot Delivery

Immediate delivery

Spot Price

The offering or bid price to be paid if the product is delivered immediately.

Tax Identification Number (TIN)

The U.S. Internal Revenue Service (IRS) web site describes a TIN as "an identification number issued by and used by the Internal Revenue Service in the administration of tax laws."

Test Weight

The weight of a Winchester or Avery bushel of a particular grain, oilseed or special crop determined by weighing a standardized volume or the crop.

Terminal Elevator Outturn

This is an unload receipt or report issued by an unloading terminal licensed by the Canadian Grain Commission.

A Terminal Elevator Outturn shows unload weight, grade and dockage. The receipt will also list all applicable charges assessed against the unloaded grain such as weighing, inspection and cleaning.

Transloading

This term refers to the operation of unloading a product, such as grain, from a rail car or vessel and transferring or reloading the product into trucks. In the case of trans loading grain from a rail car, it is often done on a railway siding using an auger. Grain may also be trans loaded from a truck to a rail car.

Transshipping

The shipment of goods, such as grain, to an intermediate destination and then, from there, shipping the good to another destination.

U.S. Customs Brokers

U.S. Customs Brokers are the only people authorized by the tariff laws of the United States to act as agents for U.S. importers in the transaction of the importer's customs business. These private individuals or firms are licensed by the U.S. Customs and Border Patrol (CBP).

Customs Brokers specialize in customs documentation and keep up with all changes in regulation and procedure. A U.S. Customs Broker is required to clear most commercial shipments through U.S. CBP. U.S. CBP requires a bond for the value of the goods plus any duties. The U.S. Customs Broker will usually supply the necessary bond, and file proper entries and forms required by various U.S. government agencies.

U.S. Customs Officers

These are employees of the U.S. Government and are not authorized to act as agents for importers or forwarders of imported merchandise. They may, however, give reasonable advice and assistance to inexperienced exporters and importers.

USDA

United States Department of Agriculture - <http://www.usda.gov>

U.S. Food and Drug Administration (FDA)

The Food and Drug Administration (FDA) is an agency within the U.S. Department of Health and Human Services. The FDA food-related responsibilities are to protect U.S. public health by assuring that foods are safe, wholesome, sanitary and properly labelled.

Appendix: Part 2

Conversions – Weights and Currencies

Weights

Converting Price per Hundred Weight (cwt) to Price per Tonne (t or metric tonne)

- Multiply cwt-weight price by 22.0462 to get price per tonne.

Converting Price per Tonne (t) to Price per Hundred Weight (cwt)

- Divide price per tonne by 22.0462 to get price per hundred weight (cwt).

Converting Tonnes (t) to Canadian (Avery) Bushels

- Multiply the number of tonnes by the conversion factor, below, for the correct grain.
- 1 t of wheat = 36.7437 bu.
- 1 t of barley = 45.9296 bu.
- 1 t of canola = 44.0924 bu.
- 1 t of oats = 64.8418 bu.
- 1 t of flaxseed = 39.3682 bu.
- 1 t of peas = 36.7437 bu.
- 1 t of mustard = 44.0924 bu.

Converting Avery Bushels to U.S. Winchester Bushels

- The chart, below, shows the U.S. standard pounds per bushel-Winchester.

MEASURES					
Pounds Per Bushel (trade weight)		Bushels Per Ton	Short	Metric (t)	Bushels to Metric Tons
Wheat, Soybeans, Triticale	60	Wheat, Soybeans, Triticale	33.3	36.7	Wheat, Soybeans = bu. x .027
Corn, Sorghum, Flaxseed, Rye	56	Corn, Sorghum, Flaxseed, Rye	35.7	39.4	Corn, Sorghum, Rye = bu. x .025
Canola/Rapeseed	50	Canola/Rapeseed	40.0	44.0	Canola, Rapeseed = bu. x .023
Barley	48	Barley	41.7	45.9	Barley = bu. x .022
Oats	32	Oats	62.5	68.9	Oats = bu. x .015
Sunflower Seed	24	Sunflower Seed	83.3	91.9	Sunflower Seed = bu. x .011

- **Source:** USDA Grain Inspection Handbook
- **Note:** The Winchester bushel weight for oats is 2 lbs./bu. lower than the Avery bushel weight.

Currencies

Conversion of Canadian Dollars to U.S. Funds

- **Example:** The Canadian dollar is quoted as 0.9500 per US dollar:
 - Then divide 1 by Cdn dollar exchange rate value to get conversion rate.
 - For example: CAD\$1 divided by 0.9500 = US\$1.0526

Conversion of U.S. bids in U.S. Dollars to Canadian Dollars

- **Example:** A U.S. crop bid is US\$100/t,
 - then US\$100/t X 1.0526 = CAD\$105.26/t. (per tonne)
- **Example:** A U.S. bid for barley is quoted as US\$5.50/cwt (US\$5.50 per hundred weight)
 - Equals (US\$5.50/cwt X 22.0462 cwt/tonne) = US\$121.25/t
 - US\$121.25/t X CAD1.0526 = CAD\$127.62/t
 - CAD \$127.62/t divided by 45.9296 = \$2.78/bu.

Calculation of an offer or price delivered to the U.S. in U.S. Dollars (USD)

A producer wanting to export crops to the U.S. in U.S. dollars needs to follow these steps:

Example: Let's say a grower in S. Alberta wants to market feed barley into Montana.

The grower would calculate the offering price this way:

- Price grower would like to receive fob his farm in Canadian dollars (CAD) = \$230.00/t
 - Plus freight to destination (CAD) = \$35.00/t for a 42 tonne Super-B load (if legal in Montana)
- **Equals Total CAD amount = \$265.00/t**
- **Divide Total CAD amount by current U.S. exchange rate = Total Amount in USD (U.S. Dollars)**
 - **\$265.00 ÷ \$1.03 USD = USD\$257.28/t**
- **Plus**
 - Customs Broker Fees (in USD/t) = \$2.00/t
 - U.S. Duties (in USD/t) = \$0.00/t
 - Merchandise Processing Fees (in USD/t) = \$0.00/t
 - U.S. check-offs if not refundable = /t
 - Other costs, if any (in USD/t) = /t
- **Equals Total Value in USD/t = US\$259.28/t**
 - **Total value in USD/Winchester bu. = (US\$259.28/45.9) = US\$5.65/bu.**
 - **Total value in USD/cwt = (US\$259.28/22.04) = US\$11.76/cwt.**

Tip: Be careful what currency and/or unit of measure you are using.

- **Are you using tonnes or the Winchester (U.S.) or Avery (Canadian) bushels or CWT to do conversions?**
- **Are you using the right currency and the right exchange rate for the right part of the calculation?**

Appendix: Part 3

Licensed U.S. Customs Brokers Operating at Sweetgrass, Montana

UPS Supply Chain Solutions

219 Bank St.

PO Box 164,

Sweetgrass, MT 59484

Phone: 406-335-2211

Fax: 866-238-3290 (toll-free)

Note: UPS clears rail cars and trucks loaded with grain to the U.S.

A.N. Deringer Inc.

110 Central Ave.

PO Box 510

Sweetgrass MT 59484

Phone: 406-335-2300

Fax: 406-335-2295

Web: www.anderinger.com/

Note: A.N. Deringer does not clear a great deal of grain to the U.S.

Cole International, Inc.

110 Bank St.

PO Box 125,

Sweetgrass, MT 59484

Phone: 406-335-4000

Fax: 406-335-4004

Web site: www.cole.ca

Note: Cole doesn't clear many trucks loaded with grain to the U.S.

Farrow Group

PO Box 114,

Sweetgrass, MT 59484

Phone: 406-335-3445

Fax: 406-335-3450

Web site: www.farrow.com

Note: Farrow does clear rail cars hauling grain to the U.S. but doesn't clear many trucks hauling grain.

FedEx Trade Networks

224 Bank St.

Sweetgrass, MT 59484

Phone: 403-335-2002

Fax: 403-335-2005

Note: FedEx doesn't clear grain.

Livingston International, Inc.

102 Central Ave.

PO Box 206,

Sweetgrass, MT 59484

Phone: 406-335-2586

Fax: 406-335-2928 or 877-548-7277

Web site: www.livingstonintl.com

Note: Livingston clears rail cars and trucks loaded with grain.

Norman G. Jensen, Inc.

211 Bank St.

PO Box 146

Sweetgrass MT 59484

Phone: 1-888-645-2497

Fax: 952-299-2722

Web site: www.ngjensen.com

Note: Jensen clears rail cars and trucks loaded with grain.

Appendix: Part 4

Canadian Grain Merchandisers, Grain Brokers and Grain Handlers Known to be Involved in Exporting Grain to the U.S.

The following list of names and addresses are for information purposes only. It is not a complete list. Listing of a person and/or company is not intended as an endorsement.

AG Value Brokers, Inc.
#11, 4511 Glenmore Trail, SE
Calgary AB T2C 2R9
Phone: 403-735-6140 or (toll-free) 1-800-679-2919
Web Site: <http://www.agvalue.com>
-cash grain brokers, freight brokers

C.B. Constantini, Ltd.
RR 8-32-9
Lethbridge, AB T1J 4P4
Phone: 403-320-0006
-marketing, transloading, exporting

Market Place Commodities
3875 9 Ave. North
Lethbridge, AB T1H 6G8
Phone: 403-394-1711 or (toll-free) 1-866-512-1711

Appendix: Part 5

Commercial Grain Transportation to the U.S.

Partial List of Trucking Companies That Haul Grain to the U.S.

The following list of trucking companies is for information purposes only. It is not a complete list. Listing a company is not intended as an endorsement.

Border Transport
94053 Hwy 843,
Lethbridge, AB T1J 4P4
Phone: 403-320-7325
-bulk transport

Dagenstein Trucking
4607 24 Ave S,
Lethbridge AB T1K 7C1
Phone: 403-320-8008
-bulk transport

Bianchi Trucking, Inc.
RR# 1
Coutts, AB T0K 0N0
Phone: 403-647-7673
-bulk transport

CJD Trucking
Division of 317522 Alberta, Ltd.
Box 726,
Lethbridge AB T1J 3Z6
Tel: (403) 381-4719
-bulk transport

Lommet's Transport, Ltd.
PO Box 1360,
Lethbridge AB T1J 4K1
Tel: 403-317-1444
-bulk transport

Mainline Railways That Haul Grain to the U.S.

Canadian Pacific
Gulf Canada Square
Suite 500, 401 9 Ave. SW
Calgary AB T2P 4A4
Grain Services Coordinator, Toll-free: 1-877-667-6001
Web site: <http://www.cpr.ca>

- There is information on shipping grain, including producer cars, at:
<http://www.cpr.ca/en/customer-centre/shipping-guides/grain/Pages/default.aspx>
and at: <http://www.cpr.ca/en/ship-with-cp/what-you-can-ship/grain/Pages/default.aspx>
- Customs and borders services information is available at:
<http://www.cpr.ca/en/customer-centre/shipping-guides/Pages/border-guides.aspx>

CN Rail

2585 167 Ave NW

Edmonton, AB T5B 4K3

Grain Desk, Toll-free: 1-877-208-5019

E-mail: CNAB@cn.ca

Web site: www.cn.ca

- There is a great deal of information available on the CN site under the “Shipping” and “Customer Service” links.
- CN Rail provides assistance with clearing U.S. Customs and Border Protection. Information on that assistance is available at: <http://www.cn.ca/en/customs.htm>
- CN serves all Canadian provinces and 14 U.S. states.

Appendix Part 6: Grain Exporter Checklist

1. **Have you called or, preferably, visited a U.S. Customs Broker to arrange an account.**
 - a. Have you arranged to get the necessary documents, including a Power of Attorney, and reviewed all export procedures?
2. **Do you have the personal identification and other documents required to enter the U.S? See Section 4.**
3. **Do you have the required truck registration, insurance and U.S. Federal Motor Carrier Safety Administration documents? See Section 4.**
4. **Do you have a Business Number for an import-export account from the Canada Revenue Agency? See Section 5**
5. **Can you accurately describe what crop (or mixture of crops) and the quality of the grain you want to export?**
 - a. How does your grain grade under the USDA Standards for Grain?
 - b. Does your grain meet potential buyers' specifications if those specs are different than USDA Standards for Grain?
 - c. What is the test-weight of your grain under the U.S. Winchester system if you intend to export it to the U.S.
 - d. See Section 12.
6. **Do you know for certain that the grain you want to export was produced in Canada (or the U.S.)?**
7. **Do you know for certain that the grain you want to export is allowed into the U.S. or other importing country?**
8. **Have you spent enough time comparing prices from potential U.S. or other importer buyers?**
9. **Have you visited a potential U.S. buyer's place of business?**
10. **Have you carefully documented all costs that need to be covered to get your product to a U.S. buyer? See Appendix Part 2.**
11. **Have you carefully compared local, Alberta prices to the net price (including absolutely all costs) you expect to receive from each potential U.S. buyer? See Appendix Part 2.**
12. **Have you done your due diligence to make certain that any potential U.S. buyers are either licensed and bonded and, if not, are fully able to pay you for your grain? See Section 9.**
13. **Do you know whether the grain needs a Phytosanitary Certificate or a U.S. Import Permit? See Section 8.**
14. **If you are using your own truck, have you investigated the maximum gross vehicle weight, maximum axle weights and bridge laws for each state you intend to travel through? See Section 10.**
15. **Have you registered your truck with the International Registration Plan, the International Fuel Tax Agreement and the U.S. Department of Transportation? See Section 10.**
16. **If you are exporting by rail, have you applied to the Canadian Grain Commission for one or more producer cars? See Section 10.**
17. **Do you have a scale ticket for your truck load?**
18. **If you are transshipping your product through the U.S. to another country, have you prepared an Export Declaration Form B-13A to present to the Canada Border Services Agency before you cross into the U.S.? See Section 3.**
19. **Do you have a U.S. CPB Invoice or U.S. Customs Broker Commercial Invoice? See Section 7.**
20. **Have you or your U.S. Customs Broker filed a Prior Notice? See Sections 4 and 7.**
21. **Have you or your Customs Broker prepared an ACE e-Manifest at least one hour before arriving at a U.S. Port of Entry? See Section 7.**
22. **Have you obtained a Prior Notice number at least two hours before arriving at a U.S. Port of Entry? See Section 7.**
23. **If you are shipping bagged product, have you labeled the bags "Product of Canada" in ink?**
24. **Have you locked-in the foreign currency vs CAD dollar exchange rate through your bank? See Section 12.**

25. Have you investigated the tax implications of exporting grain to the U.S.? See Section 13.
26. Have you checked to see how much the state check-offs are and whether they are refundable? See Section 14.
27. Have you checked to see if your grain has had pesticides applied that aren't approved in the U.S. or other importing country? See Section 19
28. Does my grain meet the Maximum Residue Limits allowed for grain to be imported into the U.S. or other importing country? See Section 19.

Note: Another exporting checklist, with a different perspective, is available from the Canadian Trade Commissioner Service web site at: <http://www.tradecommissioner.gc.ca/eng/guide-exporting.jsp>