

# Heritage and Heirloom Grains Regulations Fact Sheet



a program of



In partnership with



July 2022

# Heritage and Heirloom Grains Regulations Fact Sheet

## What are heritage and heirloom grain varieties?

Over the past decade, there has been a great deal of interest within the Canadian agricultural and culinary sectors regarding heritage and heirloom grains. As a result, farmers and gardeners are increasingly working to bring many of these varieties back into circulation and grow them for personal consumption, as well as community and commercial distribution. The terms heritage and heirloom are often used interchangeably to refer to crop varieties that are of cultural or historical significance.

Currently, there is no legal definition of heritage and heirloom grains; however, there are specific grain varieties that are commonly understood to be categorized as heritage/heirloom when distributed as seed, grain, or flour (e.g., Red Fife wheat, Einkorn, etc.) Informed by our understanding of how heritage and heirloom grains have been circulating among the farmers and seed savers we work with, SeedChange defines heritage and heirloom grains as distinguishable and stable varieties of grains that have been in use in Canada for more than fifty years, and that are not currently registered with the Canadian Food Inspection Agency (CFIA) for distribution. This includes varieties that were previously registered for distribution and no longer are (e.g., Marquis Wheat), as well as varieties that have never been formally registered but are in circulation (e.g., Red Fife wheat). The unifying thread for heritage and heirloom varieties is that they have been stabilized and used by farmers and gardeners for generations because of their special growing traits, flavours, culinary uses, and cultural or historical value.

## Why is it so hard to find heritage and heirloom grain seed?

Unlike vegetables,<sup>1</sup> most grain crop types are legally prohibited from being distributed<sup>2</sup> as seed unless the variety is registered.<sup>3</sup> However, most heritage/heirloom grain varieties have either never been registered or have been de-registered. For example, Red Fife wheat has never been registered with the CFIA<sup>4</sup> and Marquis wheat was registered

---

<sup>1</sup> Most vegetable varieties are exempt from registration requirements under Schedule III of the Seed Regulations.

<sup>2</sup> The Seeds Regulations define “sale” to include virtually any means of distributing seed, which is why we use the term “distribute” instead.

<sup>3</sup> Seeds Act s. 3(1)(b), s. 4(1)(h.2), Seeds Regulations s. 65, Schedule III.

<sup>4</sup> [https://inspection.canada.ca/active/netapp/regvar/regvar\\_lookupe.aspx](https://inspection.canada.ca/active/netapp/regvar/regvar_lookupe.aspx).

in 1923 but has since been de-registered.<sup>5</sup> Canada's seed laws, therefore, do not presently include any mechanism for legally distributing most heritage and heirloom grain varieties. This makes it very difficult to source and conserve seeds of most Canadian heritage and heirloom grain varieties.

<b>Grain types that are subject to variety registration controls in the Seeds Regulations</b>		
<ul style="list-style-type: none"> <li>● Barley</li> <li>● Buckwheat</li> <li>● Flax</li> <li>● Oat</li> </ul>	<ul style="list-style-type: none"> <li>● Rye</li> <li>● Soybean</li> <li>● Sunflower</li> <li>● Triticale</li> </ul>	<ul style="list-style-type: none"> <li>● Wheat, common</li> <li>● Wheat, durum (including Kamut)</li> <li>● Wheat, spelt</li> </ul>
<b>Grain types that are not subject to variety registration controls in the Seeds Regulations</b>		
<ul style="list-style-type: none"> <li>● Amaranth</li> <li>● Chia</li> <li>● Corn*</li> <li>● Millet</li> </ul>	<ul style="list-style-type: none"> <li>● Quinoa</li> <li>● Rice</li> <li>● Sorghum*</li> <li>● Teff</li> </ul>	<ul style="list-style-type: none"> <li>● Wild Rice</li> <li>● Wheat, Einkorn</li> <li>● Wheat, Emmer</li> </ul>
<p>* The Seeds Regulations do not require corn and sorghum to be registered for distribution. However, they require certification by the Canadian Seed Growers Association to be advertised or distributed under a variety name.</p>		

<sup>5</sup> <https://inspection.canada.ca/active/netapp/regvar/regvare.aspx?id=10>.

## **Where can I find heritage and heirloom grain seeds?**

SeedChange works closely with Seeds of Diversity to help conserve agricultural biodiversity. This work is done through a network of farmers, gardeners, researchers, and community organizers. Seeds of Diversity has created a database of Canadian seed sellers and their catalogues through their seed library and the [Ecological Seed Finder](#),<sup>6</sup> which includes many heritage/heirloom grains. These databases may be searched by crop, variety, region, and/or organic status, and are excellent places to do a targeted search of heritage and heirloom grains of interest. Small quantities of heritage and heirloom grain seeds can be sourced from the individuals and organizations listed as conserving different crop varieties. Though no one in Canada has ever been prosecuted for selling or purchasing heritage/heirloom grain varieties,<sup>7</sup> the Seed Regulations do technically prohibit their distribution. We want growers to be aware of the legal environment for heirloom grains so they can make informed decisions about the varieties they source.

## **How can we support the conservation of heritage and heirloom grains?**

SeedChange believes that the conservation and use of heritage and heirloom varieties is essential for the protection of agricultural biodiversity and seed sovereignty, as well as for the development of new organic and ecological crop varieties for food system resilience amidst the unfolding climate crisis.

Many heritage and heirloom grain varieties are also stewarded by Indigenous nations in Canada - this task of seed conservation can play critical roles in re-establishing Indigenous seed sovereignty. We believe that the existing restrictions on heritage and heirloom grain distribution can pose a barrier to Indigenous seed sovereignty and that Indigenous nations should be able to exercise full control over their seed systems without being limited by legal restrictions imposed by the settler colonial state.

---

<sup>6</sup> For the Ecological Seed Finder please visit <https://seeds.ca/seedfinder/>.

<sup>7</sup> No prosecutions for this were found when searching CanLII.org for cases pertaining to the Seeds Regulations, s.III

SeedChange is currently engaged in consultations with the CFIA to advocate for the inclusion of heritage and heirloom grain varieties in the Seeds Regulations in ways that further the public good. We hope that our input encourages the CFIA to finally recognize the work of farmers who have stewarded these important varieties for generations and allow for their socially just and ecologically sustainable distribution and use.

## **Questions?**

Please do not hesitate to reach out to us with any questions about the CFIA's regulations around heritage and heirloom varieties. Please contact:

Christy Ó Ceallaigh-Bisson

Policy Analyst, The Bauta Family Initiative on Canadian Seed Security  
[ckellybisson@weseedchange.org](mailto:ckellybisson@weseedchange.org)