



Concepts for Regulations to Support the *Animal Health Act*

What We Heard

A summary of feedback from the stakeholder engagement
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Introduction

The *Animal Health Act* is important legislation for responding to disease and other hazards in animals that may present a threat to animal or human health. Responsibilities under the Act are shared between the Department of Energy, Mines and Resources, which houses the Agriculture branch, and the Department of Environment, which houses the Animal Health Unit. The Act was updated in 2014, and regulations are needed to clarify three issues:

- Which hazards should be reportable,
- What is eligible for compensation, and
- How appeals and compensation will be handled.

To collect feedback from interested stakeholders, a Discussion Document was distributed in April, 2015. The Discussion Document was used as a tool to help guide discussions through a number of focus group sessions with interested stakeholders. This document follows up on the earlier Discussion Document, and summarizes what we heard from stakeholders that attended focus group hearings or submitted their thoughts in other ways. This document follows a similar format to the Discussion Document.

The following groups were invited to identify a representative to attend focus groups and liaise with their association to provide feedback on the issues outlined in the Discussion Document:

- Growers of Organic Food Yukon;
- Yukon veterinarians;
- Yukon Agriculture Association;
- Yukon Conservation Society;
- Yukon Fish and Game Association;
- Yukon Fish and Wildlife Management Board;
- Yukon Game Growers Association;
- Yukon Outfitters Association; and the
- Yukon Trappers Association.

The Discussion Document was also posted to the Yukon government website to enable feedback from any interested individuals. Letters were sent to all Yukon First Nations inviting their participation in the engagement process.

Three focus group meetings were held, totalling approximately six hours of discussion. Focus groups were attended by Yukon veterinarians, Growers of Organic Food Yukon, the Yukon Agriculture Association, Yukon Outfitters Association, Yukon Fish and Game Association, and Yukon Fish and Wildlife Management Board. This document presents a summary of what was heard, and the full meeting minutes are available upon request by contacting the Animal Health Unit.

Suggested approaches are included in each section, reflecting the agreement reached through focus group discussions. These approaches were recommended by stakeholders to government, and will

inform the starting point for developing the regulations. These opinions will be taken into consideration by the Government of Yukon as regulations are developed for the Animal Health Act.

Executive summary

Participants agreed that the regulations should be an incentive to farmers and others to report suspected hazards and support them in carrying out orders to prevent the spread of hazards and protect the health of domestic animals, wildlife, and the public.

We heard that a shorter, Yukon-specific list of hazards would be preferable to adopting the entire federal list because it would capture the diseases and hazards of greatest concern in Yukon, including several diseases not on the federal list.

We heard that promoting education and best practices for livestock management to prevent the spread of hazards, along with the option for inspectors to provide immediate orders by phone when a hazard is reported is more likely to result in compliance than creating a regulation that makes specific actions mandatory.

We heard that all stakeholders would prefer to use a list of predetermined values for compensation in the rare case that animals would be ordered destroyed. This process is simpler, faster, preferred by livestock owners in Yukon, and the appeals process would still allow for any exceptional circumstances to be addressed.

We heard that eligibility for compensation should be kept broad, allowing for discretion on a case by case basis. Participants also suggested that being charged with an offense under the *Animal Protection Act* or certain provisions of the *Wildlife Act* and regulations, especially those related to animal welfare, should be reasons to deny considering an application for compensation until those charges are heard.

Discussion item 1: Which hazards should be reportable in Yukon?

The *Animal Health Act* requires that a person who knows, or reasonably ought to know, that a reportable hazard is present in an animal, animal product, conveyance or area must immediately report it to the chief veterinary officer (CVO). A hazard is a disease or biological, chemical or physical agent that is likely to adversely affect the health of an animal or human, or anything prescribed in regulation. A regulation is needed to specify which hazards will be reportable in Yukon because of the threat they pose to Yukon wild and domestic animals and, in some cases, to people.

Two options were presented for discussion:

1. Create a regulation listing Yukon-specific reportable hazards, or
2. Adopt the complete federal list of 51 reportable diseases by adding a reference to the *Reportable Disease Regulations* and then add hazards specific to Yukon.

Suggested approach

- The focus group agreed on a preference for a Yukon-specific list of reportable hazards.
- The proposed list was endorsed given that the process is flexible enough to make changes in a timely manner to address new concerns.

Main messages from discussion

- It will be important to explain to all stakeholders what the roles of different governments (federal, Yukon) and various partners (farmers, veterinarians) are with regard to this regulation to ensure people understand and can comply.
- There are a few things on the proposed Yukon list that are not on the federal list that are believed to be important in Yukon for human health. One example is exposure of food-producing animals to a toxic substance. For example if a cow eats lead batteries left out in the field, the Animal Health Unit can monitor the lead levels in the cow and make sure it is not added to the food supply until it is safe for human consumption.
- Items that are on the list are there because if they are detected they will have a real impact, spread rapidly, or impact human health. In other words, events where the government would want to take action.
- There is a risk of the federal government removing hazards from their list, such as anthrax. Yukon has an interest in continuing to have anthrax reportable in Yukon, given previous outbreaks in the Northwest Territories.

- The federal list is focused on international trade, and includes a lot of exotic diseases that aren't present in North America or South America. Federal inspection prevents those crossing the border into Canada, so they are not of concern here in Yukon.
- Johne's disease is not on the proposed list because of issues relating to the tests available to confirm a diagnosis – and so there are limits on how government could act to try to control it.
- A category of respiratory disease in sheep, goats, and camelids is on the proposed Yukon-specific list. This is because of concern for the risk that domestic sheep and goats represent to wild sheep. Having it on the list provides Yukon government with a mechanism to identify where sheep are being farmed, make contact with the farmers, provide education about the implications of farming sheep in Yukon, and connect them with other resources. For example, there are opportunities that farmers may not be aware of to provide support in constructing adequate fencing and other measures to ensure separation of wild and domestic sheep.
- Reporting is required by “anyone who knows or ought to know” that a hazard is present. That may be farmer, but in many cases this person will be the veterinarian.
- The federal government remains responsible for diseases which are on their list, even those also on the Yukon list. For example, if Chronic Wasting Disease were detected in Yukon, the federal government would respond and the Yukon government would support the industry recovery. The federal government would not have a role for hazards only on Yukon's list unless they were asked by Yukon government for assistance.

Discussion item 2: What action(s) should be required before an order is issued by an inspector?

The *Animal Health Act* requires that persons who have reported a suspected hazard must take such measures as may be prescribed in a regulation. If measures were prescribed in regulations, it would be based on accepted “best practices” that will help prevent the spread of a hazard until an investigation by an inspector can verify if the suspected hazard is present. These best practices include:

- Do not move animals, animal products or conveyances,
- Do not bury or otherwise dispose of the bodies of dead animals,
- Do not sell or otherwise transfer ownership of animals, animal products or conveyances, and
- Do not destroy and/or dispose of animal products.

Two options were presented for discussion:

1. Prescribe in a regulation measures that must be taken when a hazard is suspected, or
2. Do not prescribe measures in regulation at this time, and instead rely on recommended best practices and strive to have inspectors respond rapidly to reports of a suspected hazard with an order based on best practices.

Suggested approach

- The focus group reached consensus and agreed it would be best to respond rapidly with an order to follow best practices when a hazard is suspected rather than prescribe measures in a regulation.

Main messages from discussion

- An approach that was heavy on regulation could inhibit individuals who may have a problem from coming forward.
- An order from an inspector can be made immediately over the phone, and can include following all the best practices listed above to control a hazard. It would be an offence to violate this order, as it would be an offence to violate a regulation if one was developed.
- Farmers would be eligible for compensation for any losses due to following an order but not for losses due to complying with regulations before an order was issued. Compared to having measures prescribed in regulation, having the inspector issue an order immediately over the phone provides more incentive to act responsibly to limit the spread of a hazard even if the required actions limit their ability in the short term to sell product from their farm.

Discussion item 3: How to establish compensation for animals, animal products, and things?

The *Animal Health Act* allows for a regulation that sets out the amount of compensation that may be paid. This regulation will provide essential guidance to the Minister about how to determine the value of animals, animal products and things eligible for compensation.

Two options were presented for discussion:

1. Adopt a set, fixed value for each animal category based on the maximum value listed in the federal *Compensation for Destroyed Animals Regulations*, and negotiate fair market value or animal products and things on a case by case basis, or
2. Rely on a neutral third party expert to determine fair market value of compensation due for animals, animal products, and things on a case by case basis.

Suggested approach

- A preference was communicated to use a set list of values that are determined in advance (e.g. based on the maximum value listed in the federal *Compensation for Destroyed Animals Regulations*), instead of relying on third-party evaluators to determine compensation value.

Main messages from discussion

- Animal owners preferred the standard list, as it can be difficult to agree on an independent evaluator and can take time. Having to destroy animals is an emotional thing for animal owners and they would rather not delay this action. Any delay also increases the risk that a hazard will spread despite quarantine.
- The decision being made now is not on a final list, just whether to adopt a set list or establish a practice of hiring evaluators on a case by case basis. If a list is the decision, a list of the specific values will be presented to industry to assess whether the proposed values are fair.
- It is anticipated that animals would be ordered destroyed only very rarely. Doing so is a last resort option and a quarantine is a much more likely approach.
- The maximum values of the federal list appear generous and might not need a modifier to account for the costs of transporting animals to Yukon and keeping them through winter. Compensation costs should not be so high as to create an incentive to have animals destroyed. Costs for livestock can vary greatly, and the federal list is updated regularly to reflect fair market value.
- The appeals process will be able to handle exceptional circumstances where an animal is valued at more than the cost presented on the list, such as with a prize bull.

Discussion item 4: Reasonable costs eligible for compensation

The *Animal Health Act* allows for compensation of “any reasonable costs incurred by the applicant in the course of complying with an order or direction under this Act”. While the amount of compensation is ultimately determined by the Minister, “reasonable costs” could be defined in a regulation to guide decisions.

Participants were presented with a list of possible costs that could be compensated. This list appears on pages 10-11 of the Discussion Document.

Participants were asked what kinds of activities and costs incurred are reasonable costs that could be compensated.

Suggested approach

- Focus group participants agreed that all items on the list should be eligible for compensation if they are done to fulfill the requirements of a government order under the Act.
- Do not set a maximum. Given the relatively few cases in which this kind of compensation is expected to be necessary, the geographic variation in costs, and the variety of approaches possible in response to hazards, reasonable costs can be determined on a case by case basis.

Main messages from discussion

- The costs potentially eligible for participation are broad enough that in some cases they may be reasonable and in other cases they may not. The Minister should have discretion to allow for evaluating these on a case by case basis.
- There should not be a maximum. Evaluating each situation on a case by case basis would be reasonable given how seldom this compensation would have to be used and how much prices vary by geography.
- It is important to be able to compensate fairly and fully so that farmers can comply with all orders to limit the spread of a hazard. Yukon does not want any barriers that might restrict farmers from implementing orders and recognizes that cash flow may be a limitation to compliance and in those cases the government can undertake the action on behalf of the owner.
- The farmer should be compensated for costs such as using their own equipment. The immediate costs should be compensated.
- If an area has to be fallow or burnt, then compensation should be considered for loss of use of the land.

Discussion item 5: Deductions from compensation

According to the *Animal Health Act*, the Minister must “determine whether a deduction will be made from that payment based upon a prescribed reason”. While the deductions from compensation are ultimately determined by the Minister, specific deductions could be defined in a regulation to guide the Minister’s decisions.

Four questions were presented for discussion:

1. Should compensation awarded by the federal government be deducted from compensation awarded by Yukon government for the same loss or cost?
2. Should the amount received from the sale of the carcasses or parts (hide, antlers) of animals be deducted from the amount of compensation received for the destruction of the animal?
3. Should the amount received from the sale of animal products eligible for compensation be deducted from the compensation received?
4. Are there other circumstances where a deduction might be made from compensation?

Suggested approach

- Do not compensate for costs that have already been reimbursed by the federal government.
- Pay the difference when applicable between compensation eligible from the federal government and Yukon government given the higher cost of raising livestock in the north.
- Deduct compensation for the value received from the sale of products, but be explicit in the order about how products can be used or sold to make sure people or animals aren’t placed at risk.

Main messages from discussion

- Yukon might have a higher compensation than the federal government, so the difference should be eligible for compensation but people should not be compensated for the same claim twice.
- Keep the Ministerial discretion to make deductions from compensation if there is any indication that individuals might be taking unfair advantage of compensation amounts.
- Compensation should deduct the value that can be recovered from animals or animal products, but orders should be explicit with respect to which products or animals can be used to make sure that recovering value does not put animal or public health at risk.

Discussion item 6: Circumstances for refusing to consider an application for compensation

The *Animal Health Act* specifies that the Minister must refuse to consider an application for compensation “if, in relation to the subject matter of the application, the applicant has been charged with an offence under this Act or any law of Canada or a province relating to animal health, food safety or a hazard, or for any prescribed reason”.

Two questions were presented for discussion:

1. Should the Minister also refuse to consider an application for compensation if the applicant has been charged with an offence under the *Animal Protection Act* or other legislation relating to animal welfare? For example, if an order is issued relating to a farmer’s pigs, and during the investigation, the inspector notices that other animals on the farm are neglected.
2. Are there any additional reasons for refusing to consider an application for compensation that should be prescribed in regulation?

Suggested approach

- Refuse to consider an application for compensation when someone is charged with an offence under the *Animal Protection Act*. Also refuse to consider an application when someone is charged under provisions or regulations of the *Wildlife Act*, especially those related to animal welfare, until those charges are resolved.

Main messages from discussion

- The application could be reconsidered if the charge under the Act was withdrawn or dismissed or if the applicant is acquitted of the charge and the time period for the government to appeal has expired. The application should not be reconsidered if the applicant were convicted of an offence under the Act.
- Animal welfare is separate from animal health, but some offences related to animal welfare such as not providing adequate food, water, shelter, or animal care, may contribute to animal health problems.
- Some focus group participants suggested that a charge under the *Wildlife Act* might also be a reason to refuse to consider an application, suggesting that if compensation is refused for people charged with offences related to animal welfare, wildlife should be included in that.

Discussion item 7: Appeal board membership

The *Animal Health Act* requires that the Minister appoint an appeal board immediately when a notice of appeal is received. The board must consist of three people, one of whom must be designated as chair. While it is up to the Minister to determine who should be on the board, a framework in regulation would provide guidance.

Two questions were presented for discussion:

1. Should we specify the criteria for appeal board member appointment in regulation?
2. Are there organizations, associations, groups or departments that should be represented on an *Animal Health Act* appeal board?

Suggested approach

- Do not specify appeal board membership in regulation.

Main messages from discussion

- In a small community, it is difficult to avoid conflict of interest if specific organizations have to be represented on the board. Given how rarely such boards are likely to be needed, they should be constructed on a case by case basis.
- It is a challenge to create an impartial board with people from outside Yukon.
- It was suggested that government departmental officials can advise the Minister of potential members if an appeal board is required.

Discussion item 8: How to conduct an appeal hearing

The *Animal Health Act* specifies that an appeal hearing must allow for the Minister and applicant to be heard and to be represented by counsel and that the hearing be closed to the public.

Three questions were presented for discussion:

1. Should there be a deadline prescribed in regulation for the Minister to advise the applicant that the appeal board has been appointed?
2. Should there be a deadline prescribed in regulation for holding the initial hearing once the appeal board has been appointed?
3. Should there be a timeline prescribed in regulation for the appeal board to reach a decision and communicate it to the Minister?

Suggested approach

- Do not prescribe the process for conducting an appeal in regulation. Instead, if an appeal must be heard, look to other examples of established appeal processes used by other departments in Yukon government.

Main messages from discussion

- There is some value in retaining flexibility. Some cases may have more evidence to consider. There may be implications for timelines if, for example, samples have to be sent to labs outside Yukon for testing or if specialist opinions are needed to support a decision.

Thank you for taking the time to provide your input into the development of these important regulations to protect the health of domestic animals, wildlife, and the public.