

Comments on the proposed changes to the *Animal Health Act*

A summary of the public review held April/May 2013

August 2013



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Introduction

The *Animal Health Act* came into force in 1997. This legislation is shared between the Departments of Energy, Mines and Resources (EMR) and Environment. The Chief Veterinary Officer (CVO) position was established in 2010 to provide leadership to an Animal Health Unit consisting of a program veterinarian and a laboratory coordinator.

The Animal Health Unit is responsible for education, information and disease response for issues affecting animal health in Yukon, within the scope of the *Animal Health Act*. This includes supporting Yukon's growing agriculture sector and monitoring the health of wildlife populations. The CVO provides advice to Health and Social Services (H&SS) and the Chief Medical Officer of Health (CMOH) on issues of food safety and diseases transmitted between animals and people. The overlap between animal and human health and welfare is increasingly recognized. Yukon's *Animal Protection Act* is administered by Community Services, and the CVO advises on the veterinary aspects of animal welfare.

A revised act will enable a more comprehensive response to animal diseases and ensure the Yukon government can deal with risks to livestock and wildlife health as well as support local food security and the protection of public health. It is similar to legislation in many Canadian provinces. It will support government decisions and actions that will be science-based, transparent and accountable.

A review of the current *Animal Health Act* was a key step to identifying the changes needed to ensure Yukon's legislation is current and effective. New threats to animal health, many with human health implications, have emerged in the past decade (SARS, influenza, west Nile virus, etc.) – since the act was last amended. It is important for government to have the legislative authority to respond appropriately to these threats. A comparison of Yukon's *Animal Health Act* to similar legislation across Canada found opportunities that would enhance an effective response by the Yukon government to animal health concerns.

Objective

Yukon stakeholders and First Nation governments were asked to comment on five key areas where changes were being considered to the *Animal Health Act*. The key issues are:

- 1) To expand the scope of the act;
- 2) To define the role of the Chief Veterinary Officer;
- 3) To address compensation for losses from an order under the act;
- 4) To introduce a process to appeal decisions; and
- 5) To align penalties to other jurisdictions.

This document summarizes the results of the public consultation and answers specific concerns that were raised during the process.

Next Steps

Reflecting public input and incorporating government direction, a modernized *Animal Health Act* can be prepared for review by the Legislative Assembly. It will recognize that government action taken in the public interest can result in financial and personal loss to individuals and will include provisions to address this personal loss. In future, the detailed regulations required to support the modernized act will be developed through engagement with stakeholders.

Public Input

The Yukon public was invited to offer opinions and comments through a survey that was available from government offices or on-line. The invitation was extended through a news release and promoted through advertisements in the newspapers and television, as well as through social media (Facebook and Twitter). In addition, invitations to comment were mailed to 15 agriculture and wildlife stakeholder groups, 87 agricultural producers and service providers and all Yukon veterinary clinics. The review period was 60 days, ending May 31, 2013.

Government representatives met with stakeholder groups on request to explain the legislation review process and the proposed changes, as well as to answer any questions. Meetings were held with the Yukon Agricultural Association, Yukon Game Growers Association, the Yukon Horse and Rider Association, and Growers of Organic Food Yukon as well as an interested group of agriculture producers. The Chief Veterinary Officer presented information at the Renewable Resource Councils Chairs meeting and to the Yukon Fish and Wildlife Management Board.

In addition to the comments received, there were a number of questions asked. These questions and our responses to them are included in Appendix A.

Results

The Yukon government received a total of 71 completed surveys and three email responses. Written responses were also received from the Yukon Agricultural Association, Mayo District Renewable Resources Council, Laberge Renewable Resources Council, and Dawson District Renewable Resources Council. Letters were received from the Champagne and Aishihik First Nations and Teslin Tlingit Council. Survey results and summarized comments follow.

Question 1: Do you support expanding the scope of the act?

The majority of responses, 78 per cent, supported expanding the scope of the *Animal Health Act*. In each of the sector meetings, there was support to expand the scope of the act.

Mistrust of government action, particularly from the agriculture sector toward the Department of Environment, was frequently expressed. Many were of the opinion that the Animal Health Unit should be located in the Agriculture Branch and should not include wildlife. There were concerns that an expanded scope would mean more regulation of agriculture and potentially increased costs to livestock producers. On the other hand, wildlife management interests expressed concerns about diseases found in farm animals that could detrimentally affect wildlife species and that this legislation, to provide protection to wildlife, specifically wild sheep from domestic sheep and goats, is overdue. Those with wildlife interests expressed that this legislation was second only in importance to the *Wildlife Act* in protecting wildlife.

Concern for the well-being and health of animals was more important than concerns over increasing government rules and regulation.

Do you support expanding the scope of the act?		
Answer Options	Response Percent	Response Count
Yes	77.5%	55
No	11.3%	8
Prefer not to answer	11.3%	8
(Optional) Comments		18
	<i>answered question</i>	71
	<i>skipped question</i>	0

We heard that the act should be unique to Yukon and it should be relative to the size of the agriculture industry. It should allow government to respond reasonably to hazards to animal health but must be respectful of the rights of First Nations, land owners and animal owners. Concern was expressed that the legislation be clear about what measures could be applied and that it not be excessive. We also heard that in addition to supporting animal health through legislation, there is a need to provide industry-specific education and information on the care and maintenance of livestock. A few respondents felt the current act is disease centered and that the modernized act should include a health promotion perspective.

Question 2: Do you support adding the role and authority of the Chief Veterinary Officer to the act?

Most people (83%) who responded supported adding the role and authority of Chief Veterinary Officer to a revised act. Trust is an issue for a few people, who believe the Chief Veterinary Officer was hired to champion wildlife interests in opposition to agricultural interests. Concern over the location of the Chief Veterinary Officer within the Department of Environment was raised again in response to this question. The public review of the proposed changes provided an opportunity to explain to stakeholders that the Chief Veterinary Officer’s role was established to support wild and domestic animal health as well as public health.

Do you support adding the role and authority of the Chief Veterinary Officer?		
Answer Options	Response Percent	Response Count
Yes	82.6%	57
No	8.7%	6
Prefer not to answer	8.7%	6
(Optional) Comments		22
	<i>answered question</i>	69
	<i>skipped question</i>	2

We heard that decisions on animal health have to be based in science. People said the Chief Veterinary Officer should be familiar with the farming community in Yukon but should also be concerned for the protection of wildlife species. We heard that the act should not be used as a tool simply for more enforcement but should also be a resource for education and information. The importance of having the role of the CVO acknowledged in Yukon legislation was stressed because of the changes in the response of the federal government to animal disease and control programs. There was a lack of understanding of the difference in responsibilities between the Yukon government and the federal government with respect to animal health, and a need for this to be clear in future legislation.

Many comments in response to this question also reinforced that while the CVO needed to have the tools and authority to carry out duties to protect animal health (especially wildlife), these protocols should be specified and should respect the rights of First Nations.

Question 3: Do you support adding authority for the Minister to offer compensation in the following circumstances?

A majority of responses supported providing compensation to livestock owners when government takes action to prevent the spread of animal disease. Support for compensation declined if it turned out owners were thought to have contributed to the introduction of disease through negligence or carelessness. The responses to specific questions were as follows:

Do you support adding the authority for the Minister to offer compensation when the destruction of privately owned animals is ordered		
Answer Options	Response Percent	Response Count
Yes	81.2%	56
No	13.0%	9
Prefer not to answer	5.8%	4
<i>answered question</i>		69
<i>skipped question</i>		2

Do you support adding the authority for the Minister to offer compensation for the costs of disposal, cleaning and disinfection as ordered to control disease		
Answer Options	Response Percent	Response Count
Yes	76.8%	53
No	11.6%	8
Prefer not to answer	11.6%	8
<i>answered question</i>		69
<i>skipped question</i>		2

Do you support adding the authority for the Minister to offer compensation for the loss of an animal that died, was injured or had to be killed as a result of testing or other actions ordered under the act		
Answer Options	Response Percent	Response Count
Yes	85.5%	59
No	8.7%	6
Prefer not to answer	5.8%	4
<i>answered question</i>		69
<i>skipped question</i>		2

Should compensation be adjusted if an owner has, by error or omission, contributed to the introduction or spread of disease?

Answer Options	Response Percent	Response Count
Yes	57.4%	39
No	33.8%	23
Prefer not to answer	8.8%	6
<i>answered question</i>		68
<i>skipped question</i>		3

There were specific comments from 26 respondents on the topic of compensation. Many said education and awareness about how to reduce risk is needed because they felt no one would knowingly contribute to the spread of disease. Some said it is an individual’s responsibility to be aware of risks and take responsibility for their actions or ignorance.

We heard that there is interest in how the compensation would be established, e.g., who would qualify and when. It is clear that there is stakeholder interest in providing input into the regulation that will outline the details of compensation.

Many suggested that compensation should be flexible enough to allow for differing circumstances, specifically when an individual contributed to creating a hazard. We heard a caution that compensation should be at fair market value so there is no economic incentive for owners to take advantage of a situation. The importance of discretion in determining and awarding compensation as well as consideration of the unique Yukon environment were emphasised.

We heard that farms in Yukon are small and animals are more than a product or commodity. Sensitivity is needed when animals must be destroyed to avoid spreading disease. Respondents mentioned the importance of considering options other than destruction of animals and that it will be important, when appropriate, to discuss these options with farmers and allow time for consideration before irreversible decisions are made.

Question 4: Do you support establishing an appeal process?

Almost 90 per cent of respondents agreed that it was important to establish an appeal process. Though relatively few people had comments on this question, they expressed concern over how decisions were made, especially respecting slaughter of animals for disease control. They said that an appeal process should be fair, at ‘arms-length’ and show a commitment to science-based decisions.

Do you support establishing an appeal process?		
Answer Options	Response Percent	Response Count
Yes	89.9%	62
No	4.3%	3
Prefer not to answer	5.8%	4
(Optional) Comments		12
<i>answered question</i>		69
<i>skipped question</i>		2

We heard, as with compensation, that there is much interest in how appeals would be administered, and specifically that the process be clearly defined. It will be important when developing the regulation that input of stakeholders is taken into account. There is an expectation that an appeal process will be understandable, responsive to circumstances and transparent.

Question 5: Do you support increasing penalties to align them with other Canadian jurisdictions?

Nearly 74 percent of respondents supported aligning Yukon’s penalties with the rest of Canada.

Do you support increasing penalties to align them with other Canadian jurisdictions?		
Answer Options	Response Percent	Response Count
Yes	73.9%	51
No	18.8%	13
Prefer not to answer	7.2%	5
<i>answered question</i>		69
<i>skipped question</i>		2

Question 6: What do you think should be the highest penalty for a first offence under the act?

The responses to the question on penalties were mixed. Many indicated that the question was difficult to answer without knowing the circumstances.

What do you think should be the highest penalty for a first offence under the Act?		
Answer Options	Response Percent	Response Count
Up to \$1,000	23.2%	16
Up to \$5,000	18.8%	13
Up to \$10,000	27.5%	19
Other	4.3%	3
Prefer not to answer	26.1%	18
Other (please specify)		5
	<i>answered question</i>	69
	<i>skipped question</i>	2

There was a single area for comments to the two questions on penalties; 31 comments were submitted. We heard that penalties should depend on the severity of the offense. Some felt that penalties should be determined by the courts and should be based on the seriousness and consequences of the offense. There were many comments on the importance of education, support, warnings and graduated penalties. There was no trend; comments were split between strongly voiced viewpoints.

Some felt that the upper limit for a fine could be high, including for a first offense, to act as a deterrent to individuals who might deliberately disregard orders and spread disease. It was recognized that some actions would have consequences that cannot be ‘undone’. Some felt that the industry is small compared to other jurisdictions so the fines should reflect the capacity of the industry. They said that a developing livestock industry would not thrive under the threat of high fines. We heard that graduated fines would be supported but that education should be the first step unless actions are deliberate.

Additional Comments on Entire Survey

There were additional comments written into the survey document by 33 respondents. These comments were detailed and thoughtful. In many instances they reflected past experience and raised personal concerns. The key points raised are:

- the small and developing livestock sector in Yukon should not be penalized by unnecessary regulation or unfair practices, and should be respected and valued;
- protecting the health of wildlife is a priority, especially from the possibility of disease spread from domestic animals (specifically domestic sheep);
- the rights of First Nations will need to be respected; and
- education, information sharing and a clear, fair, science-based act can help ensure that trust develops

Appendix A – Answers to questions that were asked by survey respondents

The survey/comment responses often included questions from individuals. The questions received and our answers to them are provided below.

Q: Federally ‘reportable’ diseases are excluded by the current Yukon *Animal Health Act* and handled by the federal government (Canadian Food Inspection Agency). Why should we include them and how will the relationship work between the federal government and the Yukon CVO if the federally ‘reportable’ diseases are included?

A: The federal government is the lead authority to take action for diseases that are ‘Reportable’ under federal legislation and that would not change. These diseases are some of the most important that affect livestock, trade and wildlife. Currently the Yukon government does not have legal authority to respond to them even though we are often expected to take some action due to the distance from the nearest Canadian Food Inspection Agency office. By including these diseases in the Animal Health Act the federal government will be able to share information about them with the Chief Veterinary Officer and allow the Yukon government to provide support while serving the interests of Yukon stakeholders. A regulation will be developed in consultation with stakeholders to list Yukon’s reportable diseases after the act is enacted.

Q: Will fish and fish health be included in the proposed legislation? What about the federal *Fish Health Protection Regulations*?

A: The current act includes fish within the definition of “animal.” Fish and fish health will continue to be included in the modernized act, as will birds. The broad definition of “animal” as “any organism of the animal kingdom, excluding humans” is desirable because it allows the Yukon government to respond to health hazards in any animal species. The federal Fish Health Protection Regulations list fish diseases that are currently exempt from the definition of ‘disease’ in the Animal Health Act. We propose to remove both this exemption and the federally Reportable Diseases exemption to ensure the Yukon government’s authority is no longer limited.

Q: Would the Yukon government be looking to regulate farm gate sales? What does “enhancing food safety from animal products” mean?

A: A modernized Animal Health Act would not regulate farm gate sales but would deal with threats to human health from animal products that do not cause disease in the animal. For example, there could be lead residue in meat from cattle exposed to discarded batteries (they will actually eat whole car batteries!) – if cattle were known to have eaten batteries (or another toxin) the modernized act would allow the government to test them for lead before they are slaughtered. This enhances food safety. The current act is specific to limiting the entry and spread of disease.

Q: If the expansion of the act calls for changes in existing practices that are more costly for the farmer, will the government provide support? Will there be changes to meat inspection?

A: The proposed changes to the act do not include any changes to existing farming practices or to processes such as meat inspection that are regulated under the Agricultural Products Act. The authority to affect farming practices does exist in the current act and that would continue. It is specific to situations that require control of a disease or hazard such as when a farm is under a quarantine order. This authority would be exercised for a limited period of time. The proposed changes to the act include a compensation program for individuals who are subject to orders that result in a loss.

Q: How often has the existing act been applied? How many charges have been laid under the act? Is any change required if it hasn't been used in the past?

A: No charges have been laid under the act. The Animal Health Act provides the authority for government to take action when there is a serious threat to human or animal health as well as establishes government's accountability. In that sense, the current act applies all the time. Legislation exists to clearly define the tools that can be used by government to do what needs to be done to protect the public interest. The proposed changes to the act are intended to address the significant limitations in the current act, e.g., no compensation, no appeal process, does not include animal parts or dead animals, etc.

Q: Who decides how compensation will be paid and how it will be calculated?

A: The details of the compensation process will be set out in a regulation, developed with stakeholders and subject to a public review. Typically compensation is subject to Ministerial discretion and is based on fair market value, often with reference to established compensation schemes applied by other jurisdictions.

Q: What types of decisions can be appealed? What is excluded? What is the time limit on appeals? Who would hear the appeal?

A: The details of the appeal process will be set out in a regulation, developed with stakeholders and subject to a public review. Typically there is Ministerial control over an appeal process. Some measures for persons to request review of decisions directly could be included in the act where feasible.

Q: What will be done to help prevent problems and provide support to people so they know how to reduce or prevent health risks to animals? What education is offered from the authorities on good husbandry, safety from wildlife diseases so people are not subject to penalties when they cannot afford them? How will penalties be decided and enforced? What is the justification for higher penalties?

A: The Animal Health Act provides the authority to take action as needed to protect animal or public health. The Animal Health Unit and the CVO are responsible for providing education, support and ongoing health monitoring in addition to taking action in animal health emergencies. They are working with the Agriculture Branch and biologists in the Department of Environment on health monitoring and disease prevention strategies. They have an ongoing partnership with the department of Health and Social Services on diseases like rabies as well. The Animal Health Program is developing educational materials that will be distributed as they are ready.

The Yukon government takes a graduated approach to enforcement of legislation that starts by encouraging voluntary compliance and education. While the Animal Health Act provides extensive powers to Animal Health Inspectors, in most instances people will have a vested interest in cooperating with orders to prevent the spread of a hazard. This is especially true if they can expect fair compensation for monetary losses that may result and when the justification for action is explained clearly and fairly.

The justification for higher maximum penalties is that the deliberate contravention of an order issued to protect the health of animals, people or the Yukon ecosystem is a very serious offense. It is important to remember that the decision on a penalty will rest with the court system – no matter how high the maximum is set, the judicial system is entrusted to set a fair penalty only once someone is convicted of an offense.

Q: How will wild animals be protected under a modernized act?

A: The proposed Animal Health Act will include specific control measures that animal health inspectors can apply to prevent the spread of hazards to animal or public health. The expansion of the act's scope to hazards (not just disease) will permit action to be taken if animals that are not diseased themselves pose a threat to the health of other animals because of a bacteria or virus that they can spread. The tools in the act could include restrictions on movement and imports through the use of quarantine or control areas. Risk and scientific information would determine when these measures would be implemented.

Expanding the scope to include dead animals or animal parts would permit regulation of activities such as the use of imported deadstock (e.g. dead pigs from Alberta, etc.) for bait by trappers or hunters. Regulations setting out these rules would be developed with input from stakeholders.