What we heard report – Consultation on the proposed *Feeds Regulations*, 2022, *Canada Gazette* Part I

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Introduction

The Canadian Food Inspection Agency (CFIA) undertook an online consultation in *Canada Gazette*, Part I (CGI) from June 12, 2021, to

October 15, 2021, on the proposed *Feeds Regulations*.

The goal of modernizing the *Feeds Regulations* is to reduce compliance burden and support innovation, while ensuring livestock feeds are safe and contribute to the production and maintenance of healthy livestock, safe foods of animal origin, and that livestock feeds do not pose a significant risk to the environment. The modernization of the regulations will benefit the Canadian feed industry, which includes livestock producers, commercial feed manufacturers, retailers, importers, exporters, ingredient manufacturers, and food processors. As well as maintaining the objective of enhancing animal health and food safety for the Canadian public, the modernization initiative will better align with international feed regulatory regimes.

The proposed regulations will use the following modern regulatory tools:

- incorporation by reference (IBR) of 9 documents
- outcome-based provisions through the use of preventive control plans (PCPs)
- licensing requirements.

In addition, existing regulatory requirements for ingredient approvals, product registration, labelling and standards will be updated.

The CFIA undertook an online consultation from June 12, 2021, to October 15, 2021, on the proposed changes to the *Feeds Regulations* to:

- gather feedback and confirm ongoing support from stakeholders on the proposed regulatory framework for livestock feeds
- determine where additional guidance would be required when the proposed regulations are published in *Canada Gazette*, Part II (CGII).

This report summarizes the comments received via *Canada Gazette*,

Part I, Volume 155, Number 24: *Feeds Regulations*, 2022 and the CFIA's response to those comments. The participants' views expressed in this report do not reflect those of the CFIA or the Government of Canada.

The CFIA would like to thank everyone who participated in the consultation process for contributing their time and sharing their views.

Consultation overview

- the initial 90-day consultation period ran from June 12 to September 10, 2021, but was extended by 35 days until October 15, 2021, in response to requests from stakeholders
- the CFIA consulted on the draft regulatory text and the proposed incorporation by reference (IBR) documents
- the CFIA published guidance documents and factsheets on its website to support the CGI consultation
- during the consultation period, the CFIA held webinars in both official languages to help stakeholders understand the content and impacts of the proposed regulatory changes
- over 700 participants attended these online sessions
- the CFIA notified its international partners about this consultation through the World Trade Organization (WTO) notification process
- responses to comments received from international partners will be sent through the WTO process
- Stakeholder comments were mainly received via the Canada Gazette's online commenting feature – these comments have been published in the *Canada Gazette*, Part I, Volume 155, Number 24: *Feeds Regulations*, 2022
- some additional comments were submitted via email and have been included in this report

Who we heard from

The CFIA received 88 submissions outlining questions, requesting clarifications and proposing amendments to the regulatory text during the consultation comment period from:

- national, provincial and international associations representing livestock feed manufacturers and livestock producers
- provincial governments
- feed businesses
- livestock producers
- veterinarians
- private individuals

What we heard

All submissions were reviewed and feedback was grouped into main themes when possible. In general, feedback was positive with many respondents indicating that they were pleased to see the proposed regulations published. Stakeholders also provided constructive feedback on specific sections where the proposed requirements may present undue burden, be out of alignment with current practices, or do not provide enough flexibility. There were also a number of comments that indicated that stakeholders did not fully understand the proposed requirements or where they specifically requested additional guidance before the changes are implemented. An appendix has been added to this document to further expand on some areas where there was confusion and to provide information on how specific comments will be addressed moving forward.

Elements well supported

The following elements were well supported by stakeholders:

- the overall modernization of the *Feeds Regulations*: stakeholders expressed general support for the modernization of the feed regulatory framework
- introduction of documents incorporated by reference: the majority supported the introduction of IBR documents, with some requesting clarification about how the review and consultation process for the IBR documents would be conducted
- reduction of the number of livestock feeds that would require product registration

Elements not well supported

The following elements were not well supported and resulted in stakeholders requesting that provisions be removed or modified:

- removing the customer formula exemption
- reducing the level of zinc allowed in starter swine feeds as shown in the IBR document entitled: Tables of Maximum Nutrient Values for Feeds. Stakeholders indicated that using higher levels of zinc is important for piglet health. Related to this were comments that did not support limiting the level of copper in poultry feeds to nutritional levels
- requiring that livestock feed labels include health and safety information in both English and French: stakeholders expressed concerns with the amount of space this would take on the label and challenges with translating text
- maximum levels for certain contaminants, mainly for mycotoxins and dioxins, as shown in the IBR document entitled: Tables of Maximum Contaminant Levels for Feeds. Stakeholders identified concerns

regarding the process of developing or amending maximum contaminant levels in this IBR
- feeds for horses not intended for human consumption: some stakeholders felt these feeds should be exempted from the proposed *Feeds Regulations*
- the new standard for *Salmonella* in livestock feed: stakeholders had concerns about how the outcome-based requirement would be interpreted

Elements with mixed reactions

The following elements received mixed reactions. In some cases there were stakeholders who supported the change while others did not, and in other cases stakeholders supported part of a provision but not the whole provision.

- preventive control plan (PCP) requirements: stakeholders were in support of having some type of PCPs to control the risks, but were concerned about costs associated to implement them and how their current Hazard Analysis and Critical Control Points (HACCP) based programs and on-farm food safety programs could be used to meet these new regulatory requirements
- licensing requirements: stakeholders were in support of having some type of livestock feed licensing system, but had questions on how the licensing system would work and concerns on the additional costs with getting a livestock feed licence
- minimum and maximum guaranteed amount requirements (Section 54): stakeholders were concerned that the requirement did not provide enough flexibility for all types of guarantees
- livestock feed exports: many stakeholders supported the CFIA taking

a more active role in promoting market access while others questioned the need for oversight of exports
- request for list of ingredients of a livestock feed: stakeholders were concerned that providing the list of ingredients may cause administrative burden and result in confidential business information being shared

Elements that require clarification or adjustments to the regulatory text

The following elements resulted in questions from stakeholders. They were seeking clarification on the requirements or indicated a need for additional guidance. In some cases they indicated a need for adjustments to the regulatory text.

- questions on the process for updating IBR documents and the frequency of updating these documents
- clarification on the approval and registration of livestock feeds, including service standards
- clarification on the definitions for certain feed types
- a desire for greater alignment with trading partners and other domestic legislation
- clarification on how the tolerance limits are being applied to nutrient and medicating ingredient guarantees and if the tolerance limits are on a dry matter or as fed basis
- concerns about the level of vitamin D allowed in poultry and fish feeds
- concerns about the level of selenium allowed in fish feeds
- questions about packaging and labelling requirements such as optional guarantees on labels, font size for caution and warning statements, lot number placement on labels, and flexible labelling

requirements
- questions about livestock feed imports and preventing the introduction and spread of foreign animal diseases as well questions on who is responsible (the CFIA or importer) for ensuring the imported livestock feed has the same level of protection and meets the Canadian regulatory requirements
- requests for more flexibility respecting traceability and record keeping, including how electronic records may be used
- concerns about the transfer of caution and warning statements to the label of any mixed feed containing the single ingredient feed (SIF) in its formulation
- requests to allow the units of measure on a livestock feed label to be displayed in any order
- clarification on what is meant by feed administered in water
- clarification on the information required for each application package and if a sample of feed will be required for every application
- clarification on enforcement measures and a desire for consistency in compliance and enforcement actions

Next steps

The CFIA thanks everyone who participated in the consultation process. We will consider all input as we work to update the *Feeds Regulations*. The CFIA anticipates publishing the final amendments in the *Canada Gazette*, Part II in spring 2023. At that time, additional guidance and information sessions will be held to support stakeholders as the new regulations are implemented.

Appendix

The following has been included to respond to some specific comments that were raised during the consultation and to provide feedback on the direction the CFIA will take moving forward. Comments that were considered to be outside of the scope for this consultation are not addressed here.

Consideration

Comments related to how documents incorporated by reference (IBR) will be updated

Clarification

The CFIA will be providing specific guidance as it relates to the process for updating the 9 IBR documents, including how often they will be updated, at the time of publication in CGII. The CFIA is committed to the principles of accessibility, transparency, consistency, reasonableness, and clarity when using IBR in regulations. The CFIA Incorporation by Reference Policy sets out the CFIA's roles and responsibilities related to IBR. This includes, public consultation for any changes to the IBR documents. Any changes made to these IBR documents, whether changing the maximum levels for contaminants or nutrients or adding a new or modified SIF description to the Canadian Feed Ingredients Table (CFIT), will be consulted on before the change is made.

Consideration

Comments related to which permissible claims are found in the IBR document and how to add other claims to this document

Clarification

The CFIA received a number of comments on the Tables of Permissible Claims for Feed Labels IBR document with respect to what claims are found in the proposed IBR document and how to add other claims to the document. The CFIA will be working with interested stakeholders to ensure the permissible claims and the conditions for the feed and label are relevant for that particular claim. The CFIA has clarified that a livestock feed label can contain more than 1 permissible claim.

Additional details on the frequency of updating this document and process of adding a permissible claim will be included in the guidance document on updating IBR documents. At the time of CGII, the list of permissible claims allowed on livestock feed labels will be relatively small with opportunities for the list of permissible claims to be expanded over time.

Consideration

Comments related to the bilingual labels

Clarification

Stakeholders raised concerns that the requirement for bilingual labelling is challenging and will result in additional information to be included on the label. In addition, stakeholders requested other ways to provide the information (for example, QR codes, bar codes). Bilingual labelling is a requirement under the *Official Languages Act* (OLA). In accordance with the OLA, health and safety information must be provided in both official languages. To meet these requirements, the new regulations will require that

health and safety information appear on the principal display panel of livestock feed labels. It may not be provided separately or in another format. To help stakeholders meet this requirement, most of the information that will be required in both languages can be found in the CFIT, the Compendium of Medicating Ingredients Brochures (CMIB) or in guidance provided by the CFIA. In addition, the regulations provide some flexibility with respect to labelling and do not require certain label information such as directions for use, guaranteed analysis statements and lists of ingredients to be provided on the principal display panel.

Consideration

Comments related to feeds for horses not intended for human consumption. Stakeholders suggested that these should be exempt from the proposed regulations, and that horse feeds should not require record keeping.

Clarification

Horses are considered livestock species and their feed is regulated under the current and proposed regulations. Differentiating feed for horses intended for human consumption or not intended for consumption would be challenging and complex. The CFIA is recommending that there be no exemptions for horse feeds in the proposed regulations. This would be consistent with the regulatory requirements for all livestock species, there would still be controls in place for all horse feeds, and it recognizes that many horses can enter the feed and food

chains. Under the proposed regulations, most standard horse feeds (for example, complete feeds and supplements) will be exempt from registration, but will still need to meet standards for safety and labelling.

The CFIA is recommending changes to the record-keeping requirements for complete feeds, supplements and treats for horses in packages of 25 kg or less. Sales records will not need to be kept for these types of horse feeds. These feeds are often sold for horses that are being kept as pets or for show and which are not intended for human consumption. These changes maintain important safety and consumer protection components of the regulations, while addressing some of the concerns received from retailers about keeping sales records for livestock feeds that are not typically fed to animals intended for human consumption.

Consideration

Comments related to the proposed maximum level of zinc allowed in feed for starter swine and how this does not align with industry practices

Clarification

The CFIA, Health Canada, as well as the feed and swine industries have been involved in discussions on this issue. The CFIA is working on a policy that will provide more details on an approach to provide some flexibility. It is proposed that a phasing out approach will be used that will allow stakeholders to continue using the current zinc levels for a period of time. This phasing out approach allows stakeholders time to explore alternative options,

including changes to their management practices or pursuing a pathway for access to alternative drug products with Health Canada.

Consideration

Comments related to the regulatory requirement for *Salmonella*

Clarification

Stakeholders commented on the outcome-based requirement that livestock feeds may not contain bacteria of the genus *Salmonella* that present a risk of harm to human or animal health. They were seeking further clarification on what this requirement means.

The CFIA has been working on guidance respecting prevention, control and mitigation of *Salmonella* in livestock feeds. This guidance will provide stakeholders with additional information on how to comply with the regulatory requirements for *Salmonella* in livestock feeds.

Consideration

Comments related to the appropriateness of the methods the CFIA used to set levels that ensure feed safety. More specifically, the levels set for dioxins in livestock feeds and whether the proposed regulations are based on science and whether the levels set for contaminants will create barriers in marketplace access.

Clarification

The maximum levels set for dioxins and other contaminants in livestock feed in the proposed IBR document (Tables of Maximum Contaminant Levels in Feeds) are based on science in which a risk assessment approach was used. The maximum levels for dioxins were established to limit dioxin accumulation in foods of animal origin, thereby reducing human exposure. The CFIA's goal in setting the standards for dioxins in SIFs is to continually reduce unnecessary sources of contaminants in livestock feeds and, in turn, food. Recently, the Government of Canada has published a report on the Performance Measurement Evaluation for Risk Management of Dioxins and Furans, which states having controls in place for livestock feed, along with other actions, can help reduce human exposure to these contaminants. This regulatory objective aligns with that of international food safety and animal health bodies, such as the Codex Alimentarius Commission (CAC/RCP 62-2006), the World Organisation for Animal Health (Chapter 6.4 WOAH Terrestrial Animal Health Code), the Food and Agriculture Organization of the United Nations (FAO 2008), and the World Health Organization (WHO 2016 Dioxins and their effects on human health).

The maximum contaminant levels are set out in an IBR document. This means that these levels can be updated in a more timely manner as new scientific literature becomes available. As mentioned above, a process and timelines for updating IBR documents will be published to help stakeholders navigate requesting changes when new information becomes available.

Consideration

Comments related to the feed type definitions and clarity on what requires registration under the proposed regulations

Clarification

The CFIA received comments on the definitions for certain feed types, including the definitions for mineral feed, premix, supplement and specialty feed. Comments were also provided on the content of a mixed feed as well as the content of a mineral feed and premix (that is, Section 37 to 39) of the proposed regulatory text.

The CFIA has reviewed the comments received during the CGI consultation and intends to update some of the definitions to reflect the feedback received.

- complete feed – minor changes to better clarify the definition
- mineral feed – clarify that it is predominately minerals but may contain other ingredients
- premix – clarify that this feed type is a source of nutrients but may contain other ingredients
- speciality feed – clarify that a specialty feed may contain ingredients that do provide some nutritional value and ensure all of the appropriate technical functions are included in the definition

Some additional revisions to the standards for certain feed types and the related IBR document (Tables of Nutrient Guarantees and Conditions for Feed Labels) may also be required.

This will help clarify how each of the different feed types are

defined. Additional guidance at the time of publication in the CGII will help stakeholders understand how these feed types work together and what they mean from a registration perspective.

Consideration

Comments related to feed manufacturers providing the list of ingredients upon request

Clarification

Stakeholders indicated that the requirement to provide the list of ingredients upon request would be burdensome and may impact proprietary formulations. The CFIA recognizes some of these concerns and intends to update the requirement. It is intended that the list may only be requested by a purchaser of the livestock feed, and that businesses will have 5 business days to provide that list. This would help to ensure that customers have access to the list of ingredients used in livestock feeds and continue to support consumer protection. However, feed manufacturers are encouraged to provide the list of ingredients on the livestock feed label or upon request to anyone who requests it.

Consideration

Comments related to the guaranteed amount being within 10% of the actual amount found in the feed (Section 54)

Clarification

The CFIA intends to remove Section 54 from the regulatory text.

Guarantees on livestock feed labels must be accurate and when a minimum or maximum is guaranteed, it should reflect the composition of the livestock feed. It is important to understand that over-formulating or under-declaring the vitamin or mineral levels in SIFs, premixes or supplements may result in issues as these feed types are used to formulate subsequent livestock feeds. The CFIA will provide further guidance on labelling livestock feeds and may provide further guidance on guaranteed actual amounts compared to guaranteed minimum or maximum amounts.

Consideration

Comments related to the period for which records need to be kept or retained and ability to keep electronic records instead of paper-based ones

Clarification

After further consideration of the implications of the proposed 3 year record retention period, it is anticipated that such period will be amended to 2 years. Records may be kept as physical records or electronically. Regardless of the format, records must be made available to inspectors upon request. If records are kept electronically inspectors may require access to the electronic system.

In addition, based on feedback from stakeholders about challenges for smaller feed businesses, the CFIA intends to update the record keeping requirement for retail sales to indicate that the lot number does not need to be recorded. This will allow

flexibility for businesses where the livestock feed may be paid for in one part of the facility and loaded into the customer's vehicle in another part. However, the CFIA encourages businesses to record lot numbers wherever possible. If lot numbers are not recorded, the scope of a recall may be much larger and impact more customers as it may not be possible to determine exactly who received the impacted lot.

Consideration

Comments related to the new PCP requirements. Feed businesses that have implemented other quality systems are concerned about the need to develop and implement a whole new program to comply with the PCP requirements within proposed *Feeds Regulations*.

In addition, feed operators are concerned about the expenses involved in implementing new PCP requirements especially building design, washing trailers, and hiring new staff.

Clarification

Operators are responsible for developing, implementing and maintaining measures to achieve compliance with the regulatory requirements outlined in the proposed *Feeds Regulations*, including PCP requirements. The new PCP requirements can be met by developing and implementing new operational measures, improving existing ones, or adopting those already in place as they are. It is the operator's responsibility to assess that new, improved or existing measures bring their operations into compliance with the proposed regulations. If an operator already

has a HACCP or other feed safety program in place, they will need to review their existing program to ensure it meets the outcomes described in the *Feeds Regulations*. If it does, no additional changes will be needed.

The CFIA recognizes that there will be additional costs associated with these regulatory changes and has outlined those in the regulatory impact analysis statement that was part of the CGI consultation. However, it is not anticipated that operators will need to build new facilities or purchase new equipment. Operators are expected to ensure that existing facilities and equipment prevent, eliminate or reduce to an acceptable level any risk of contamination of the livestock feed. Operators may opt for using a combination of existing infrastructure, newly introduced design features, and innovative measures that would bring their operations into compliance with those PCP requirements. The CFIA appreciates the feedback on these components and would like to clarify that the elements that must be a part of a PCP are linked to where there is a risk of contamination of a livestock feed. For example, if a facility does not use any water in the manufacture of their livestock feed there is no need to have any controls related to water quality or safety.

Consideration

Comments related to regulatory requirements for on-farm feed mills and whether these regulatory requirements will meet existing on-farm food safety programs

Clarification

The new requirements respecting hazard analysis and preventive control plans will apply to farms that manufacture medicated feed or farms that sell feed. The CFIA recognizes that many farms are already part of an on-farm food safety program that includes hazard analysis and preventive control plans for many aspects of food safety. The CFIA heard from many of the producer groups that they would like to work with the CFIA to review whether the existing food safety programs would also address the new feed safety requirements. The CFIA looks forward to working with these organizations to help ensure producers are able to meet the feed safety requirements.

Consideration

Comments related to the licensing requirements

Clarification

Stakeholders requested clarification on a number of items related to licensing including whether each facility needs a licence, and if inspections will be required. The CFIA intends to provide additional guidance on livestock feed licences before the new licensing requirement comes into effect.

The new regulations will require facilities that perform prescribed activities with prescribed feeds to have a licence. Flexibility is provided to allow feed businesses to decide if they would like 1 licence that covers all of their facilities and activities or multiple licences that cover multiple prescribed activities in multiple facilities. Feed businesses can choose the approach that best suits their needs and their business.

Once the proposed *Feeds Regulations* come into force, the CFIA anticipates that an inspection prior to issuing an initial livestock feed licence will not be required. However, the CFIA does have the authority to conduct an inspection prior to issuing or renewing a licence. Future program development may set up criteria for when an inspection would be required. Guidance on when an inspection is required would be communicated before implementing that requirement.

At this time, the CFIA estimates that the holder of a Safe Food for Canadians Regulations (SFCR) licence will still need a livestock feed licence. However, the CFIA will explore options for combining food and livestock feed licences in the future.

Consideration

Comments related to whether an exporter who needs an export certificate or other document issued for a livestock feed to be exported will have to have a licence

Clarification

A number of comments were received indicating that additional CFIA support for export and market access would be beneficial. A licence will be required to conduct prescribed activities (manufacturing, storing, processing, packaging, labelling and selling) with a livestock feed that is to be exported. Regardless of whether the exporter needs a certificate or other document for a livestock feed that is being exported, the exporter will need a licence. However, the livestock feed does not have to meet all of the Canadian requirements and may instead meet the

requirements of the importing country.

Consideration

Comments related to Administrative Monetary penalties (AMPs) under the proposed *Feeds Regulations*

Clarification

At this time the *Feeds Act* and regulations are not included in the *Agriculture and Agri-Food Administrative Monetary Penalties Act* (AAMPA) and regulations. The CFIA may issue administrative monetary penalties (AMPs) as notices of violation with warning or financial penalty, depending on the nature of the violation, as an enforcement measure for acts and their associated regulations that are listed in the AAMPA and regulations.

After publication of the *Feeds Regulations* in CGII, the CFIA will further consult with stakeholders on AMPs. This will include more information on which provisions in the *Feeds Act* and regulations that AMPs could be applied to. AMPs will not be used prior to consultation and amendments to the AAMP regulations.

Consideration

Comments related to guidance materials for *Canada Gazette*, Part II (CGII) publication

Clarification

The CFIA appreciates the offer from multiple stakeholders to work with us on guidance materials in support and

implementation of the proposed *Feeds Regulations*. In the near future, the CFIA will be reaching out to stakeholders to determine the best way to engage with various groups on the development of guidance materials. The CFIA anticipates that industry guidance will be published in phases to align with when the provisions come into effect. Initial guidance materials will focus on the provisions that come into effect at the time of publication in CGII. This includes approval and registration provisions as well as labelling, and general and safety standards. For the labelling and standard provisions, there is a transition period of up to 1 year to allow stakeholders to follow the former regulations or the new regulations.

More detailed guidance materials related to PCPs and licencing will follow later when the provisions come into effect, so 12 months and 18 months after CGII publication, respectively. The CFIA will be providing some guidance related to PCPs and licencing at the time of CGII publication.

With regards to questions and comments related to service standards, these will be developed through a consultation process with interested stakeholders. The CFIA will be undertaking a review of its service standards for livestock feed in the future. It is important to note that no service standards will be placed in the regulatory text, but will be placed into policy instead.

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