Export certification

Australian exports various agricultural goods, with the major commodities exported including: meat, grains, horticulture, dairy, fish and egg products. Our responsibilities and powers are defined in the Export Control Act 1982 (Export Act) and associated legislation. The legislation underpins our export certification system and ensures that goods exported will meet importing country requirements. Note that we report on aspects of livestock exports separately - under the live animal exports chapter of this report.

We certify the compliance of exported goods with importing country food safety and plant health requirements. Figure 1 summarises our main export certification activities for 2017-18.

Figure 1. Main export certification activities, 2017-18

Our export certification system involves a range of regulatory activities that include registration of establishments and identification of exporters. All registered establishments are audited regularly to ensure ongoing compliance with the legislation. We identify exporters to ensure traceability of goods prior to export. For exporters to obtain export certification, the goods must remain in the export supply chain.

Compliance with the export chain is critical in ensuring the department regulates prescribed goods for the purpose of managing biosecurity risk through phytosanitary and sanitary measures. This provides assurances that the goods meets the destination country’s import requirements when issuing the relevant export documentation. Food safety regulation is generally a state government jurisdiction.

In 2017–18, less than 1 per cent of consignments were rejected as a result of export certification failure. Consignments can be detained by the importing country from time to time, but few if any are
technically ‘rejected’. When appropriate, we work closely with agricultural counsellors and exporters to facilitate the release of goods in a timely manner. During this period, no markets were adversely affected as a consequence of detained consignments.

As an agency we seek to negotiate technical market access protocols that make it possible for exporters to benefit from negotiated trade agreements. While the increasing volume of market opportunities makes it a challenge to meet the demand for new access arrangements, we are working with industry to prioritise this work. We continue to negotiate with trading partners on arrangements to open, maintain and improve access for commodities, and providing expert advice in negotiations to restore markets if trade is disrupted.

In December 2017, the Export Control Bill 2017 was introduced into Parliament. The revised legislation is an important body of work to better support primary producers, manufacturers and exporters and Australia’s commitment to meeting the requirements of importing countries. If enacted, the legislation will streamline regulations under 17 different Acts to provide simpler export rules and to reduce the costs of complying with export controls. Subject to the Bill being passed, we plan to implement the new export control laws by April 2020. We are drafting export control rules to replace the export control orders, and reviewing our export systems to identify improvements to our operational controls in line with the new Bill.

We also manage quota arrangements for commodities (including dairy and meat) exported to the European Union, Japan and the United States. In 2017–18 we worked to update the legal, IT systems and administrative systems we use to manage export quotas. Following consultation with all industries and exporters who use the quotas, we developed a new option for streamlined arrangements for the Government’s consideration.
## KPI 1—We do not unnecessarily impede the efficient operations of regulated entities

**Objective:** We understand the operating environment of our regulated entities and stakeholders.

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| Our regulatory practices minimise the impact of regulation on stakeholders and regulated entities. | ❖ New and amended regulations are supported by regulatory impact analysis. | Rating: Managed
  ➢ We consider the regulatory burden for individuals, businesses and community organisations before we amend or make new regulations. This work is overseen by the Office of Best Practice Regulation (OBPR).
  ➢ Where the regulatory impacts are deemed significant by OBPR we prepare regulation impact statements (RISs) and consult with stakeholders and regulated entities on the impacts of the proposed changes. In 2017-18 we finalised RISs for streamlining of export tariff quotas and export legislation. The Regulatory Impact Statements (RISs) were deemed best practice by OBPR.
  ➢ We routinely consult stakeholders and regulated entities on a range of regulatory and related matters, even where a RIS is not required. This identifies the impact of regulations on our regulated entities. |
| | ❖ We engage with our stakeholders on implementation and compliance approaches. | Rating: Sound
  ➢ We are proposing the expanded function of Authorised Officers (AOs). AOs are individuals appointed under the *Export Control Act 1982* to perform specific export inspection functions. Once trained, they are able to conduct a range of regulatory functions. As these may be industry based, there are significant benefits to business, with reduced delays arising in the inspection process.
  ➢ We work closely with trading partners to support export outcomes. This includes development of electronic export certificates that will help streamline administrative processes for exporters and the department. |
**Objective:** Our communication with regulated entities is clear, concise and targeted, we are effective, accountable and transparent.

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| Our guidance is accessible and information is tailored to the needs of regulated entities. | Risk-based frameworks, strategies and service standards are available on our website and the information is regularly reviewed to ensure currency. | Rating: Managed  
- All relevant legislation is publicly available on the Federal Register of Legislation. Stakeholders can access legislation, guidance, industry advice notices and compliance advice notices on the department's website. We also provide stakeholders and subscribers with regular e-updates.  
- We periodically review and update materials accessible via the department’s website. Scheduled periodic review and verification of guidance material ensures that it remains relevant and appropriate.  
- We are also reviewing and updating key legislation to ensure relevance and simplify regulatory requirements associated with export certification. This will simplify and streamline legislative obligations of regulated entities. |
| We engage with regulated entities on potential changes to regulatory policies, practices or services. | Advice notices and guidance material are up to date, accurate, accessible and in plain English. We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes. | Rating: Managed  
- At the start of 2017–18 we launched Have Your Say, an online platform to support engagement with external stakeholders. The platform enables consultation with stakeholders about changes to policies, programs and regulations, and to seek their feedback on our services.  
- We ensure stakeholders are aware of changes to regulatory policies and strategies through Industry Advice notices and Market Access Advice notices. We make these notices publicly available on the department’s website.  
- We also conduct targeted consultations and engage with experts and industry representatives as appropriate. |

**Objective:** We make decisions in a manner that is timely, consistent and supports predictable outcomes.

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| When we make decisions we provide reasons and our advice | Our advice to regulated entities explains the | Rating: Managed  
- The legislation allows regulated entities formal application for a reconsideration and review of decisions made. Further information is available on the department’s website. |
Objective: Our performance measurement results are published in a timely manner to ensure accountability to the public.

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| is timely and consistent.  | reasons for decisions and provides information about avenues for review or complaint (as provided for in relevant legislation). | ➢ We provide advice in accordance with the relevant service standards outlined by the department's client service charter. The client service charter and standards are published on the department’s website.  
➢ Decisions are made in accordance with legislative requirements and are provided to clients in writing and in a timely fashion. |

Reports on regulator performance are published in the required timeframes.

➢ We publish an annual self-assessment of our performance by the required timeframes.

➢ Our regulators publish performance information specific to their regulatory frameworks.

Rating: Sound

➢ Our Regulator Performance Framework report provides a high level assessment of our performance as a regulator. The department’s annual report also provides performance information on export certification and related activities.

Rating: Managed

➢ As a regulator we publish a range of material on our regulatory activities and related programs that provide targeted information that supports specific regulated entities.
# KPI 3—Our actions are proportionate to the regulatory risk being managed.

**Objective:** We apply a risk-based, proportionate approach to compliance, engagement and enforcement activities.

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| Our regulatory frameworks are supported by best practice compliance strategies that are risk based. | We employ a current best practice approach to determine risk, and consider the circumstances of regulated entities. | Rating: **Sound**
- We adopt a regulatory approach that considers compliance history and overall risk of regulated entities activities. This is set out in our regulatory policies and operating procedures. This includes measures that provide flexibility to assist inadvertent non-compliance and to reward compliant entities.
- We use compliance and enforcement tools tailored to the identified risks and behaviour of our regulated entities. These include inspections, audits, fit and proper person tests, warrants and investigations. Enforcement tools such as additional audits, infringement notices or court action are only employed when a cooperative approach has been unsuccessful. |

| Staff making regulatory decisions appropriately employ a range of graduated compliance and enforcement tools. | Our staff are provided with appropriate training and guidance materials to support their compliance roles. | Rating: **Managed**
- We offer a range of training courses to staff, including introduction to risk management, export food requirements and specific training on relevant legislation and regulations. Detailed work instructions and guidelines are available to all staff and these are reviewed periodically to ensure relevance. We seek to recruit staff with relevant expertise and ensure training needs are identified. We use verification activities to identify gaps in training or the need for changes to tools and work instructions. |

| Eligible regulated entities receive tailored approaches based on an understanding of their operating environment and risk profile. | We apply a graduated approach to compliance activities that provides for earned autonomy, within legislative parameters. | Rating: **Managed**
- We adopt a regulatory approach that takes into account compliance history and overall risk of the activities. This is set out in our operating procedures. This includes measures that provide flexibility to assist inadvertent non-compliance and to reward compliant entities.
- We provide opportunities for exporters to efficiently obtain appropriate export certification through streamlined processes that recognises compliance. |
**KPI 4—Our compliance and monitoring approaches are streamlined and coordinated**

**Objective:** We base our monitoring and inspection approaches on assessed risk and where possible, we take into account the operating context.

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| Demonstrated benefits to regulated entities from our efforts to streamline and coordinate our regulatory activities. | Rating: Managed  
- We regularly review our business processes with a view to streamlining where possible.  
- Our published service standards are met or exceeded. | In 2017–18, we continued the development of modern technology to improve regulatory information and services as part of the department’s ongoing modernisation program. The department uses surveys and consultation to gather feedback on proposed improvements. We find significant satisfaction from stakeholders and regulated entities with the export services. While there is high level of acceptance we know that our systems are still to fully mature and require ongoing development. |
| | | Rating: Optimal  
- The department’s service charter outlines our service commitments and establishes benchmarks for delivering export related services. The quality of service we provide to our clients is measured against client service standards. In 2017–18, we expanded the range of client service standards beyond our client contact services to include our export services. We met all our export service standards. |

**Objective:** We share information and coordinate our compliance activities within the department and with other regulators as appropriate, to minimise duplication and increase efficiency.

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| Business processes and services are improved through the better use of modern technology, and agreed service standards. | Rating: Managed  
- We analyse complaints information and other feedback from our regulated entities to understand trends and make improvements where possible.  
- We collaborate with other relevant regulators to reduce compliance costs and improve efficiency where possible. | As noted above, we report on standards for responding to stakeholder requests through the client service charter. We seek to improve our responsiveness through business improvements. |
| | | Rating: Managed  
- We routinely engage with relevant internal organisations on Australia’s regulatory interests. We are also a member of relevant international organisations and routinely engage in relevant policy and standards setting.  
- We have agreements for conducting regulatory activities with external regulators including State regulators this reduces regulatory burden for registered establishments |
KPI 6—We actively contribute to the continuous improvement of our regulatory frameworks.

**Objective:** We establish cooperative and collaborative relationships with regulated entities and stakeholders to promote trust and improve the efficiency and effectiveness of our regulatory frameworks.

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| We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks. | We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions (this target also applies for KPIs 2&5). | Rating: Optimal
- As noted above, we maintain commodity based ICCs as a key engagement process. We also use Have Your Say, an online platform to support engagement with external stakeholders.
- The department is the secretariat on a number of consultative committee meetings with key industry stakeholders to provide progress on program areas’ regulatory activities. We also make industry aware of important policy and legislative changes. We seek their advice and also provide opportunities for feedback prior to implementation of changes. |
| We have a program of review for our regulatory frameworks and we suggest legislative change / implement operational change as appropriate, as a result of these reviews. | Rating: Sound
- We actively engage in formal and informal legislative reviews, including the investigation of, and amendment where appropriate of legislation outside of the formal review process when changes to the trade environment of our regulated entities indicates review is required.
- We work collaboratively with service delivery areas within the department to ensure that operational activities meet legislative outcomes in a way that does not unnecessarily impede the operations of the regulated entity. |
| Our RPF self-assessment reports identify areas for improvement in our systems and processes. | Rating: Managed
- As a regulator we publish a range of material on our regulatory activities and related programs and provide targeted information that supports specific regulated entities. |
In 2017–18, our Plant Export Operations Branch completed amendments to the Export Control (Plants and Plant Products) Order 2011 (Plants Order) to include the accreditation of properties for the export of horticulture products to protocol markets.

The purpose of the amendment was to provide for the regulation of properties that produce or prepare horticulture products for export to protocol markets.

The department, as Australia’s National Plant Protection Organisation, has entered into an increasing number of protocol agreements with international trading partners in recent years, reflecting increased demand for Australian horticulture products. Previously, the department relied on administrative policy arrangements to implement some of these protocol agreements, which were not underpinned by legislation. This resulted in deficiencies in our ability to effectively regulate these properties and ensure compliance, which was a key component in maintaining market access under the protocol agreements.

The amendment clearly articulates the obligations of both the department and industry, and provides a means to assure trading partners that horticulture products have been produced and prepared in accordance with importing country requirements. The amendment was designed in a flexible way to allow the department and industry to respond to the diverse range of importing country requirements, and a changing trade environment.

The amendment included provisions to support a smooth transition for industry from administrative arrangements to legislated accreditation of properties, from commencement. The provisions reduced unnecessary regulatory burden on managers of properties and their operations, and mitigated the risk of disrupting trade during Australia’s horticulture product export seasons.

This amendment contributes to improving the current agricultural export legislative framework and forms part of wider regulatory improvement of the Plant Export Operations Branch to streamline and strengthen the regulation of agricultural exports, with the goal of improving the department and industry’s capability to maintain and grow Australia’s market access.