



20 December 2012

Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
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Parliament House
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Dear Sir/Madam

**RE: NEW BIOSECURITY LEGISLATION – SUBMISSION TO SENATE
COMMITTEE FOR RURAL AND REGIONAL AFFAIRS AND TRANSPORT**

National Farmers' Federation (NFF) welcomes and supports the updating of the *Quarantine Act 1908* and associated legislation and regulations into a more robust, flexible and modern 'package' designed to service Government and industry needs well into the future.

NFF acknowledges the extensive process through which the Department of Agriculture, Fisheries and Forestry (DAFF) has undertaken in putting together the draft legislation as it currently stands. NFF also appreciates being involved in this process through its representation on the Industry Legislation Working Group established by DAFF for use as a sounding board during the drafting process.

Since the release of the exposure draft, NFF and its member organisations have had representatives at a number of workshops around the country where the draft legislation has been tested against various scenarios. Feedback was given to DAFF during and after these workshops, with DAFF responding to the substantive matters raised.

While generally supportive of the approach and content of the new legislation, NFF recognises that a level of detail on administration and operation will be captured in the subordinate regulation and guidance material. NFF encourages the government to ensure this material is released for consultation as soon as possible.

Through its Biosecurity and Animal Management Committee, NFF identified the following issues.

Biosecurity Import Risk Analyses, Inspector General and Eminent Scientists Group

The clarity of process around the arrangements for the new Biosecurity Import Risk Analyses (BIRAs) is appreciated. Nevertheless, this will most likely remain a contentious area of interface with industry, principally because of the commercial ramifications of resulting decisions.

NFF notes this statement from the explanatory memorandum attached to the Biosecurity Bill:

The BIRA process will also be subject to independent scientific review, similar to the Eminent Scientists Group process outlined in the Quarantine Regulations, to ensure that the outcomes in the final BIRA have a solid scientific basis and independent review by the Inspector-General of Biosecurity to ensure that the BIRA process has been conducted correctly.

While there is a significant amount of detail available regarding the appointment, office, and role of the Inspector-General of Biosecurity, there is limited information provided regarding the independent scientific review. NFF believes this is a critical assurance measure within the Biosecurity Import Risk Analysis process and the government must, as a matter of urgency, release details of how the independent scientific review will be conducted, and how industry will be able to have input. At a minimum NFF believes the requirement for independent scientific review needs to be captured within the subordinate regulation.

Risk-Based Approach

NFF's policy clearly supports the internationally accepted norm of 'minimum risk' as against 'zero risk'. NFF supports the emphasis being placed on a risk-based approach to assessing imported goods requiring clearance for entry into Australia. When compared with the previous approach of selecting at random a percentage of all shipments for quarantine checking at the border, the new legislation will facilitate 'risk profiling' of shipments, allowing for attention to be focused on those shipments that present the highest risk of disease and/or pest incursion. This will provide for a much more efficient use of resources and an improved outcome in terms of detections. A real strength of this approach rests with the risk profiling throughout the supply chain such that all aspects of the product's risk – from source to destination – are considered.

Onus of Proof

NFF strongly supports the change of 'onus of proof' whereby, in the case of suspected illegal imports, the importer will now be required to prove the shipments were legal rather than the Government having to prove they were illegal.

Approved Arrangements

'Approved Arrangements' will replace current agreements involving Quarantine Approved Premises and Compliance Agreements.

With the change from a *physical* concept (i.e., "premises") to *agreements* ("arrangements") being the basis of import rules, confusion within industry is evident. While DAFF has, via the various consultative fora, attempted to explain the new, more flexible approach, a number of questions remain about how this concept will translate into a more robust system than exists now. Generally speaking, NFF sees a potential risk in relying heavily on assurances of good behaviour given by importers who have a financial interest in the goods being imported.

As such, NFF requests an assurance from Government that, in circumstances where the product being imported presents a potential risk of introducing a pest or disease of major significance to Australia's agricultural industries, maximum rigour be applied to approval and auditing processes. It is conceivable that, without this, familiarity could breed carelessness;

no amount of recompense (through the confiscation of a bond and/or other punitive action) could undo any dire consequences from such carelessness.

Commitment to Resourcing

With the apparent decline in jurisdictional resources traditionally used to assist industry in the field of disease surveillance and control, NFF requests the Federal Government maintain, as one of its highest priorities, the adequate resourcing of its responsibilities under the new legislation. NFF sees an important part of this commitment being the retention and ongoing training of biosecurity officers required for the Government to fulfil its expanded obligations.

In this context, NFF can only assume all jurisdictional governments are in agreement with the direction this new legislation has been taken, particularly with respect to emergency powers and zoning, and that they have committed to providing full co-operation should the need arise for the Federal Government to impose intra- or inter-jurisdictional zoning and controls as a response to any major disease and/or pest incursion. While jurisdictional co-operation may not be essential for such impositions, it would be useful in ensuring the quickest possible resolution of any incident.

Cost Recovery

The draft cost-recovery provisions apply in the main to importers and agents. Provisions to allow for the recovery of moneys through the sale of withheld goods (in the case of unpaid fees) is noted and supported.

In conclusion, NFF appreciates the efforts made in drafting this Bill to respond to one of the central tenets of the Beale Review recommendations: the review and update of the *Quarantine Act 1908*. DAFF has overseen the drafting of what seems a comprehensive document with inbuilt flexibility that will allow biosecurity and quarantine arrangements to be tailored to the risks involved. While some supportive documents are yet to be circulated, NFF is, on the whole, happy with the direction taken. Support for this overarching legislation should not be taken to mean NFF will automatically support the subordinate regulation. Where the government suggests details will follow in future bills they should immediately outline their intentions.

Yours faithfully

Mr Matt Linnegar
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National Farmers' Federation