



Australian Government
**Department of Agriculture
and Water Resources**

Biosecurity – Spring 2018

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Compliance Division

- Highly Compliant Importers project
 - Risk based intervention
- Automatic Entry Processing (AEP) next steps
 - AEP reform update
 - Commodity Expansion
- Compliance concerns
 - Ongoing non-compliance
- Chinese government certification
 - Change in competent authority



Highly compliant importer project

Risk Based Intervention

- Importers with 100% compliance over an extended period as demonstrated through inspection outcomes
- Eligible tariffs as agreed with DAWR biosecurity policy areas
- Goods must still meet all import conditions
- Monitoring profiles will randomly select HCIP lines for verification inspection
- Operates at the discretion of the department based on its assessment of the risk, and operation of other risk based intervention schemes (e.g. AAs)
- CP questions will not be asked if the entity/tariff combination has been added to the HCIP and the line has not been selected for verification

AEP Next Steps

AEP reform update

Post phase 2 implementation June 2018

- 26 % increase in NCCC consignments
- 20 % of import declarations lodged AEP
- Verification June - August 98% compliant

Further enhancement September 2018

- Non-commodity lines generated on all FID and SCL entries
- One non-commodity line per container for FCL/FCX
- Individual containers may be released or directed for intervention
- FCL/FCX mixed cargo type restriction removed



Commodity Expansion

Commodity groups selected on:

- Tariff volume
- Biosecurity risk
- Complexity
- Industry interest



Commodities under development:

- Expanding tariff codes of current AEP groups
- Homewares containing processed plant fibres and animal derived material (feathers, wool and animal hair)
- Fruits, vegetables and herbs (dried or frozen)
- Laboratory products

Two releases scheduled - December 2018 and June 2019

Compliance concerns

Ongoing non-compliance

- Packing declarations
 - Revised packing declaration mandatory (effective July 2018)
- Storage declarations – manufactured wooden articles
 - BICON updated September 2017
 - Offshore fumigated goods require a storage declaration
- Agriculture Entity ID (AEI)
 - Minimum import declaration requirement
 - Mandatory for all offshore treated goods and packing
 - **BMSB season – AEI MUST be included**

Chinese government certification

Change in Competent Authority

From 21 August 2018

- New Chinese government authority issuing certification
- Now issued by General Administration of Customs of the People's Republic of China (GACC)
- GACC will use new certificates and new stamps
- Certificates issued by CIQ prior to 21 August remain valid
- Includes Health, Veterinary, fumigation and phytosanitary certificates
- Security features unchanged



Approved Arrangements 2017-18 overview

3,254 audits conducted

1,522 nonconformities were detected



Most common nonconformities relate to :

- Goods subject to biosecurity being released without departmental approval
- Issues with cleanliness, biosecurity signage, and inspection tables not meeting agreed requirements

1,522 nonconformities were detected

Biosecurity Infringement Notices Scheme (INS)

- About the Infringement Notices Scheme
- INS in the non-passenger environment
- Purpose of infringement notices
- How and when infringement notices will be issued
- Key points
- Department's approach



The Infringement Notice Scheme (INS)

On 16 June 2016, the *Biosecurity Act 2015* (Act) came into effect introducing a new range of regulatory tools to strengthen and enforce compliance with the provisions of the Act including the use of infringement notices.

The Act provides for the issuing of notices as part of the new suite of regulatory tools across various import pathways such as airports, seaports and cargo.

The department has taken a phased approach to implementing the use of notices, focusing first on airports before expanding the Infringement Notice Scheme across other import pathways.

- Infringement notices are currently being used in airports across Australia
- 2 penalty units (\$420) apply to air passengers
- Most notices are paid before leaving airport

INS in the non-passenger environment

The department intends to implement the use of infringement notices as a sanction for non-passenger breaches of the Act on 8 September 2018.

The department published an Import Industry Advice Notice about this on 3 September 2018 (see notice no. 106-2018).

The department's biosecurity enforcement officers can issue infringement notices for a contravention of the Act that occurred either prior or after the 8 September 2018, noting that an infringement notice must be issued within 12 months of the contravention.

Purpose of infringement notices. How/when they will be issued.

Notices provide an administrative method for dealing with certain breaches of the Act and are typically used for high frequency, low-level contraventions of the Act.

Infringement notice provisions supplement offence and civil penalty provisions to provide an alternative to taking court action (prosecution for an offence or civil proceedings for a civil penalty order).

Biosecurity enforcement officers have the power to issue an infringement notice under any of the 52 provisions listed under s 523(1) of the Act.

Some of the 52 infringement notices can be used across the biosecurity continuum (e.g. s 533 and s 532: providing false or misleading information or documents). **See handout – table of the 52 provisions.**

Key information

The following information applies to infringement notices issued outside the non-passenger environment:

- an infringement notice may be given to a natural person or company;
- an infringement notice must be given within 12 months after the day on which the contravention is alleged to have taken place;
- the notice recipient may request the withdrawal of the notice by writing to the department (see the back of the notice form);
- the amount payable under an infringement notice varies, generally the amount is 12 penalty units (\$2,520) for an individual (natural person) or 60 penalty units (\$12,600) for a body corporate (company);

- payment of the infringement notice is voluntary, if the notice recipient chooses to pay, it must be done within 28 days after the day the notice is given (payment period);
- an extension of time to pay may be granted, if a request is made before the end of the payment period (see back of the notice form);
- if the notice is paid (within the original or extended payment period) and is not subsequently withdrawn by the department, the notice recipient's liability is discharged and a criminal prosecution or civil proceedings seeking a civil penalty order may not be taken against the recipient by the department; and
- if the notice recipient chooses not to pay the infringement notice (within the original or extended payment period), the department may commence civil or criminal proceedings against the notice recipient.

Departments approach to using Infringement notices

- The department may seek a court-based resolution should the recipient of the notice choose not to pay. Biosecurity enforcement officers should only issue an infringement notice where they are satisfied that a strong prima facie case exists that would support the department commencing proceedings seeking a civil penalty order under Part 4 of the *Regulatory Powers (Standard Provisions) Act 2014* or a criminal prosecution against the notice recipient for the alleged contravention(s) of the Biosecurity Act;
- In keeping with the principle of graduated regulatory response, where a person has previously received a written warning in relation to similar behaviour, the biosecurity enforcement officer should consider issuing an infringement notice, noting that the officer must first have regard to the facts and circumstances of the current alleged contravention and hold the requisite belief, on reasonable grounds, that a person has contravened an infringement notice provision under the Biosecurity Act.

- A biosecurity enforcement officer should consider issuing an infringement notice rather than commencing civil penalty proceedings or a criminal prosecution where:
 - the contravening conduct is relatively minor or less serious;
 - there have been isolated or non-systemic instances of non-compliance;
 - the level of biosecurity risk or harm is low;
 - the facts are straight forward and are not in dispute or controversial; or
 - the use of infringement notices form part of a departmental industry program or compliance priority where it is necessary to immediately impose a penalty as an effective response to an alleged contravention of the Biosecurity Act.

- A biosecurity enforcement officer should consider prosecuting an offence or commencing civil penalty proceedings rather than using an infringement notice where:
 - there has been previous compliance action against the contravener for similar contraventions of the Biosecurity Act;
 - the contravener has a history of non-compliance for which an infringement notice would not be an effective deterrent;
 - the contravention is more serious in nature and warrants consideration by a court;
 - there has been, or could have been significant biosecurity risk or harm arising from the alleged conduct;
 - the contravener has obtained financial/commercial advantage from the alleged contravention; and
 - it is in the public interest to do so.

- In appropriate cases, as well as issuing an infringement notice, a biosecurity enforcement officer should also consider the use of appropriate additional remedies such as a court-enforceable undertaking.

Questions?

Brown Marmorated Stink Bug (BMSB)



Rama Karri

A/g Director, Cargo and Mail

BMSB – the agriculture pest

- Potential to severely impact our agricultural industries
- Juveniles and adults feed on, and severely damage fruit and vegetable crops
- Known to feed on around 300 different plant species
- Overwintering bugs do not respond to pheromones so traps are of limited use



Images source: google



BMSB – the nuisance pest

- Adults enter vehicles, homes and factories in large numbers in autumn months, looking for places to shelter over winter
- In some cases people experience a burning sensation if skin comes in contact with BMSB secretions
- The smell emitted is an aeroallergen that can cause allergic reactions in some people



Images source: google



photo: G. Vetek



BMSB – home invasion



video source - youtube



2018-19 season measures

- Seasonal measures are implemented to manage the risk of BMSB arriving in cargo and containers during the high risk season
- The 2018-19 BMSB season commences on 1 September 2018 and finishes on 30 April 2019
- Seasonal measures apply to goods shipped as sea cargo to Australia
- Seasonal measures apply to certain goods (target high risk and target risk goods) manufactured in, or shipped from target risk countries
- Throughout the season we will continue to review the measures and based on detections of BMSB and the risk pathways



Measures relating to countries

- Any target high risk or target risk goods manufactured in, or shipped from these countries are subject to the BMSB seasonal measures
- Any vessel that tranships or loads goods from these countries are also subject to heightened vessel surveillance



USA



Russia



Georgia



Italy



Greece



Japan*



Germany



Hungary



France



Romania

** Heightened surveillance for all roll-on/roll-off (ro-ro) and general cargo vessels only*



Measures relating to vessels

- Heightened surveillance on all roll-on/roll-off (ro-ro) and general cargo vessels through additional pre-arrival reporting with a BMSB questionnaire and daily checks conducted by vessel masters
- This measure will apply to vessels that tranship or load goods from France, Georgia, Germany, Greece, Hungary, Italy, Japan, Romania, Russia, and the United States of America





Measures relating to goods

- Seasonal measures apply for all target high risk and target risk goods shipped as sea cargo on or between these dates
- Mandatory offshore treatment of target high risk goods shipped as break bulk, in open top containers or on flat rack containers
- Mandatory offshore or onshore treatment of target high risk goods shipped as containerised cargo in sealed six sided containers, such as FCL (full container load), FCX (full container consolidated), LCL (less than container load) and FAK (freight of all kinds)
 - Containerised cargo with target high risk goods may be treated on arrival in Australia at the container level.
 - Deconsolidation or removal of goods (for example, mix of high risk, risk and all other goods) will not be permitted prior to treatment.



Measures relating to goods



- Export or destruction of target high risk goods requiring mandatory offshore treatment and arriving untreated, or treated by an unapproved treatment provider, unless exceptional circumstances are granted.
- Target risk goods will be subject to increased onshore intervention through random inspection and will be directed for onshore treatment if BMSB is detected.
- Random inspection of goods after treatment to validate the effectiveness of treatments.
- Random inspection of goods from all other emerging BMSB risk countries.
- All goods must still meet standard import conditions in BICON.



Target goods

Target high risk goods

- Goods in this category require mandatory treatment for BMSB risk

Target risk goods

- Goods in this category will be subject to increased onshore intervention through random inspection. If BMSB is detected the goods will be directed for onshore treatment

All other goods

- BMSB seasonal measures do not apply to goods not identified as ‘target high risk’ and ‘target risk’. These goods may be subject to the measures if they are part of a consignment that contains target high risk and target risk goods.

Target high risk goods

36 - Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations

44 - Wood and articles of wood; wood charcoal

45 - Cork and articles of cork

57 - Carpets and other textile floor coverings

68 - Articles of stone, plaster, cement, asbestos, mica or similar materials

69 - Ceramic products – including sub chapters I and II

70 - Glass and glass ware

72 - Iron and steel - including sub chapters I, II, III, IV

73 - Articles of iron or steel

74 - Copper and articles thereof

75 - Nickel and articles thereof

76 - Aluminium and articles thereof

78 - Lead and articles thereof

79 - Zinc and articles thereof

80 - Tin and articles thereof

81 - Other base metals; cermets; articles thereof

Target high risk goods

82 - Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal

83 - Miscellaneous articles of base metals

84 - Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof

85 - Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles

86 - Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds

87 - Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof

88 - Aircraft, spacecraft, and parts thereof

89 - Ships, boats and floating structures

93 - Arms and ammunition; parts and accessories thereof

Target risk goods

25 - Salt; sulphur; earths and stone; plastering materials, lime and cement

26 - Ores, slag and ash

27 - Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes

28 - Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes - including sub chapters I, II, III, IV and V

29 - Organic chemicals - including sub chapters I, II, III, IV, V, VI, VII, VIII, IX, X, XII and X111

31 - Fertilisers

38 - Miscellaneous chemical products

39 - Plastics and articles thereof - – including sub chapters I and II

Target risk goods

39 - Plastics and articles thereof - - including sub chapters I and II

40 - Rubber and articles thereof

46 - Manufactures of straw, of esparto or of other plaiting materials; basket ware and wickerwork

47 - Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard

48 - Paper and paperboard; articles of paper pulp, of paper or of paperboard

49 - Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans

56 - Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof

Treatment options

Image source: 2wglobal.com

- Treatment options:
 - Sulfuryl fluoride fumigation
 - Methyl bromide fumigation
 - Heat treatment
- Target high risk goods shipped as break bulk, in open top containers or on flat rack containers must be treated offshore
- Target high risk goods shipped as containerised cargo must be treated offshore or onshore (if permitted)
- Target high risk goods requiring mandatory offshore treatment and arriving untreated, will be directed for export or destruction, unless exceptional circumstances are granted



Treatment assurance measures

- The department has developed new treatment assurance measures for the 2018-19 season
- These include:
 - Minimum standards for BMSB treatments and offshore treatment providers
 - Offshore BSMB Treatment Providers Scheme including an approved offshore treatment provider list
 - Processes to prevent fraudulent treatment certificates

Offshore BMSB Treatment Providers Scheme

- The Offshore BMSB Treatment Providers Scheme (the scheme) sets out the department's registration and compliance requirements for BMSB treatment providers
- All treatment providers in France, Georgia, Germany, Greece, Hungary, Italy, Romania, Russia and the US that intend to conduct BMSB treatments must register under the scheme
- The application form and instructions for registering for the scheme is available on the BMSB webpage under the [BMSB Offshore Treatment Providers Scheme](#) page
- To become an approved treatment provider, applicants must demonstrate that they meet the requirements of the scheme

Approved offshore treatment providers

- Importers with goods that have been treated offshore by approved treatment providers will have the least impediments when their goods arrive into Australia
- To assist the clearance process, approved treatment providers will be required to submit treatment certificates by email to bmsbtreatments@agriculture.gov.au
- Treatment certificates must document the treatment details, including AQIS Entity Identifier and the container number, if the goods are shipped as containerised cargo (where possible)
- Importers will still need to lodge all relevant cargo reporting including treatment certificates into ICS and COLS as per normal processes.

Fraudulent certificates

- In 2017-18, the department ceased accepting certificates for sulfuryl fluoride treatments conducted in Italy. This was in response to BMSB detections, and a review of treatment providers and certificates.
- The Offshore BMSB Treatment Providers Scheme includes requirements to prevent the use of fraudulent certificates, including:
 - Unique identifiers, and
 - Pre-arrival reporting of treatments
- The new requirements will enable the department to match a consignment's treatment certificate to data from approved treatment providers.
- Consignments that arrive in Australia with a certificate that is fraudulent, defective, or from an unapproved treatment provider will be directed for export

Exceptional circumstances

Your goods will be subject to export or destruction if they don't meet the requirements under the BMSB measures. In these cases, exceptional circumstances may be applied to enable your goods to be treated onshore.

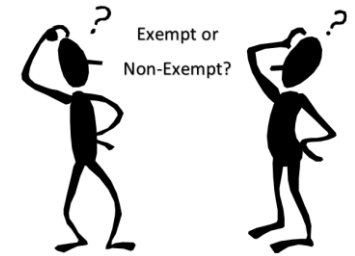
The following situations are considered exceptional circumstances. We will continue to add to this list as required.

1. Your goods have been treated by an approved offshore treatment provider and while enroute to Australia, the treatment provider becomes unapproved. This may result in your goods being directed for treatment onshore on arrival.

Exceptional circumstances

2. Your goods have been treated by an approved offshore treatment provider and during inspection on arrival, live BMSB is detected. Your goods will be directed for onshore BMSB treatment. This will trigger a non-compliance investigation.
3. Your goods are not subject to the BMSB measures but on arrival, live BMSB is detected. Your goods will be directed for onshore BMSB treatment.
4. Your goods are accompanied with a non-compliant treatment certificate issued by an approved treatment provider or non-registered treatment provider in a non-target risk country. Your goods will be directed for onshore BMSB treatment. This will trigger a non-compliance investigation.

Exemptions from the measures



Goods manufactured on or after 1 December 2018

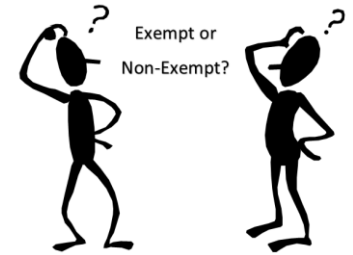
- Are your goods classed as new machinery, vehicles and/or new complex parts and equipment?
- Are your goods manufactured on or after 1 December 2018?
- Are you able to provide evidence that the goods are manufactured on or after 1 December 2018?
- Are you able to provide a declaration stating the goods are new, unused and not field tested?
- Can the goods be verified they have been manufactured on or after 1 December 2018?

If you have answered yes to all the above questions, BMSB measures do not apply to your goods. If sufficient evidence is not provided the goods may be directed for export or onshore treatment (if permitted).

Image source: google

Exemptions from the measures

Goods transported and stored prior to 1 September 2018



- Have your goods been transported to and stored in a non-target risk country prior 1 September 2018?
- Are you able to provide evidence that the goods have been transported to and stored in a non-target risk country prior to 1 September 2018? (Evidence can be in the form of a shipping invoice, manufacturer's declaration, commercial invoice, etc.)

If you have answered yes to all the above questions, BMSB measures do not apply to your goods. If sufficient evidence is not provided the goods may be directed for export or onshore treatment (if permitted).

Image source: google

Exemptions from the measures

Goods exempted from mandatory BMSB treatment

All target high risk goods manufactured in, or shipped from the target risk countries as sea cargo must comply with mandatory treatment unless certain conditions exempt them from the BMSB measures.

Where importers are unable to meet with the certain conditions, exemptions from mandatory treatment for BMSB may only be applied in the following situation. We will continue to add to this list as required.

- Your goods are imported for the use of delivering emergency services where mandatory treatment will significantly impact the delivery of the service. In this situation your goods will be subject to inspection on arrival.

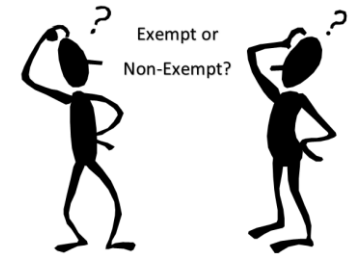


Image source: google

Be biosecurity aware

- Everyone has a role in protecting Australia's biosecurity
- Many reports of suspected biosecurity concerns come from wharf workers, transport operators, ship's crew, stevedores and depot staff who report their concerns to the department
- These reports allow us to investigate and respond quickly to manage the risks and stop pests at the border

See. Secure. Report.

See: keep an eye out for biosecurity concerns

Secure: try to secure or isolate the biosecurity concern; this can be as easy as closing the doors on a shipping container

Report: let the department know that you have found something by calling 1800 798 636 or visit www.agriculture.gov.au/report



SEE. SECURE. REPORT.

1800 798 636

agriculture.gov.au/report

Look for pests in shipping containers and imported goods

See. Secure. Report - cargo awareness

Click on the link below to see the

See. Secure. Report. Cargo awareness video

<http://www.agriculture.gov.au/import/before/pests>



Enquiries about the BMSB measures
airandseacargo@agriculture.gov.au



Alternatively, visit the department's
webpage for updates

www.agriculture.gov.au/bmsb

Questions