



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

Department of Agriculture and Water Resources Customs Licensing Review Submission (Brokers)

29 January 2016



SCOPE AND PURPOSE

This document serves as the submission of ideas and information from the Department of Agriculture and Water Resources (DAWR) to the Customs Licensing Review 2015-16 for consideration by the Customs Review Working Group. The submission will provide information on relevant elements raised within the Customs Licensing review discussion Paper focusing on the licensing of Customs Brokers.

Background

DAWR in consultation with industry has developed and implemented co-regulatory arrangements to allow accredited customs brokers (brokers) or self-reporting importers to assess documentation associated with the importation of cargo under a compliance agreement arrangement. Under these arrangements, brokers undertake training and assessment, to gain 'accreditation' to assess documentation and process and lodge entries (Import Declarations) using Automatic Entry Processing (AEP) under the *Non-commodity for Containerised Cargo Clearance Scheme and the AEP for Commodities Scheme (AEPCOMM)*. These activities require access to DAWR IT resources via the internet.

DAWR monitors the performance of accredited brokers by conducting random audits of AEPCOMM entries to ensure compliance with the scheme. Where a broker is found to be non-compliant, their brokerage incurs a non-conformity which increases their rate of random audit referrals to DAWR for a set period of time in line with the General Policies (sanctions policy) applicable to the scheme.

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THE GOVERNMENTS OBJECTIVES

Licensing of Customs Brokers

DAWR approves brokers to use automatic entry processing if they are a licensed customs broker and successfully complete the required NCCC and AEPCOMM scheme training. DAWR relies on DIBP licensing processes when accrediting brokers for NCCC and AEPCOMM. There are a number of opportunities for further co-ordination and streamlining of licensing and related processes between the DIBP and DAWR.

These include:

- Fit and Proper Persons assessments,
- Licensing assessments and related processes
- Compliance management – including active information exchange and the coordinated application of sanctions non-compliant behaviors.

Fit and proper

The Biosecurity Act which comes into force on 16 June 2016 contains a 'fit and proper person' (FPP) and an 'associates' requirements. Whilst FPP considerations have been in place for DAWR related businesses conducting export activity import related businesses have not previously been exposed to these requirements. These provisions allow a number of factors to be considered by the Director of Biosecurity when deciding whether to issue an entity with an import permit or allow an entity to enter into an approved arrangement with the Commonwealth.

Quarantine Approved Premises (QAPs) and Compliance Agreements (CAs) will become transitional 'approved arrangements' after commencement day as the corresponding approval under s406 of the Biosecurity Act. The transitional approved arrangements will need to be renewed to become an approved arrangement. In order to renew a transitional approved arrangement the Director will need to consider a fit and proper person test amongst other matters. Harmonization between DIBP and DAWR through a single FPP assessment processes where possible would seem to be a logical opportunity especially given much of the regulated audience is common to both agencies.

License Conditions and licensing

Given that a significant proportion of activity undertaken by brokers involves compliance with DAWR legislation (for example: Quarantine Act, Imported Food Control Act, Export Control Act and soon the Biosecurity Act) it is appropriate that broker compliance with requirements for DAWR legislation become formally considered as a part of ongoing licencing considerations in the same way as DIBP portfolio requirements are considered.

Depending on the outcomes of this review the form of ongoing broker management may change however DAWR would like to also be considered for membership to National Customs Brokers Licensing Committee or its equivalent forum. As previously stated, formal information exchange and compliance management mechanisms would help both agencies identify and manage undesirable broker behaviour and more effectively manage portfolio risk. Examples include; product miss-description, product classification, under reporting etc.

Duration of a licence

As stated above the duration and approval of licences for brokers would be best served through a single process and set of requirements. Any other Issues

Whilst DAWR notes that the Continued Professional Development (CPD) scheme is out of scope of this working group, DAWR would like to flag that it has implemented a Continued Biosecurity Competency component to accreditation for AEP and NCCC to replace re-accreditation training every few years. This is for noting for this working group and for future discussion about the consolidation of these two initiatives.