Export Control (Hay and Straw) Orders 2005

I, WARREN ERROL TRUSS, Minister for Agriculture, Fisheries and Forestry, make these Orders under regulation 3 of the Export Control (Orders) Regulations 1982.

Dated 7 February 2005

WARREN TRUSS
Minister for Agriculture, Fisheries and Forestry
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Part 1 Preliminary

1 Name of Orders
These Orders are the Export Control (Hay and Straw) Orders 2005.

2 Commencement
These Orders commence on the day after they are registered.

3 Definitions
In these Orders:

- **Act** means the Export Control Act 1982.
- **details**, in relation to a person, means the following information:
  - (a) the person’s name;
  - (b) the person’s address or business address;
  - (c) contact arrangements, including phone number, fax number, and e-mail address (if there is one);
  - (d) if the person is representing a business, the ABN or ACN (as appropriate) for the business, the name of the business and the name of an officer for contact.
- **hay** means a pasture plant, or any of the cereal plants wheat, oat, barley, rye or triticale, that is cut and dried (not including chaff).
- **hay and straw export standard** means the document titled ‘Standard for minimising the risk of Corynetoxin contamination of hay and straw for export’, published by the Department.

  **Note** A copy of the standard may be obtained:
  - (a) from: AQIS, GPO Box 858, Barton, ACT, 2600; or
  - (b) on the Internet at www.daff.gov.au.
- **laboratory** means a person or organisation whose business is conducting scientific testing.
- **registered establishment** means an establishment that is registered under section 12.
- **straw** means the cut stem and leaves of a cereal plant, other than rice.
- **test result**, for hay or straw, means the record of the result of a test carried out for paragraph 7 (c).

4 Purpose of Orders
These Orders provide a system for sampling and testing hay or straw for export to minimise the risk of the toxin *corynetoxin* being present in the hay or straw.
Section 5

5  Prescribed goods

Hay and straw are declared to be prescribed goods for the purposes of the Act.
Part 2  Export

6 Prohibition on export
Hay or straw may be exported only if:
(a) the hay or straw has been sampled and tested in accordance with these Orders and the hay and straw export standard; and
(b) its test results do not show the presence of the toxin corynetoxin.

7 Sampling, labelling and testing
The following procedures must be carried out, in accordance with the hay and straw export standard, on hay or straw that is intended for export:
(a) the hay or straw must be sampled;
(b) the sample must be labelled or otherwise identified;
(c) the sample must be tested by a laboratory approved under subsection 18 (1).

8 Notice of intention to export hay or straw
(1) Part 8 of the Prescribed Goods (General) Orders 1985 applies to the export of hay or straw.

(2) A person intending to export hay or straw must attach the test results for the hay or straw to the notice of intention to export required by that Part of those Orders.

9 Export permit
(1) Part 9 of the Prescribed Goods (General) Orders 1985 applies to the export of hay or straw.

(2) If an importing country requires a phytosanitary certificate so that hay or straw may enter the country from Australia, order 29 of the Grain, Plants and Plant Products Orders applies to that export of hay or straw.

10 Reinspection of goods
Part 10 of the Prescribed Goods (General) Orders 1985 applies to the export of hay or straw.
Part 3 Registered establishments

11 Processing of hay or straw to occur in a registered establishment

A person may prepare hay or straw for export only in an establishment that is, at that time, a registered establishment.

12 Registration of an establishment

(1) Part 5 of the Prescribed Goods (General) Orders 1985 applies to an establishment that prepares hay or straw for export except for:
(a) the requirement, in paragraph 24 (d), to have a laundry; and
(b) paragraphs 43 (d) and 51.1 (a) and (f).

(2) If the Secretary is satisfied, after an inspection of the premises and record-keeping procedures in place at the establishment, that the occupier of the establishment is likely to be able to comply with the requirements of these Orders, the Secretary may register the establishment.

(3) Subject to subsection 14 (2), a registered establishment remains registered for 6 months after the establishment is inspected and approved as suitable.

(4) An occupier of a registered establishment may apply for an inspection of the establishment on payment of the relevant fee.

13 Further requirements of registration

The occupier of a registered establishment must comply with the hay and straw export standard at all times when preparing hay or straw for export.
Part 4  Records

14  Records — registered establishments

(1) The occupier of a registered establishment must retain records showing, in relation to each consignment of hay or straw that the establishment prepares for export:

(a) the details of the person who supplied the hay or straw; and
(b) the date on which the hay or straw was prepared for export; and
(c) the date that the sample of hay or straw was drawn for testing; and
(d) the means of identifying the group of bales from which the sample was drawn; and
(e) the sampling method used (of those methods listed under ‘sampling methods’ in the hay and straw export standard); and
(f) the details of the laboratory that tested the hay or straw for the purposes of these Orders; and
(g) the test method used (of those methods listed under ‘testing methods’ in the hay and straw export standard); and
(h) the test results; and
(i) the details of the person who took delivery of the hay or straw after it had been prepared for export, if it was not the person who supplied it or the exporter; and
(j) the details of the exporter, if known.

(2) The Secretary may suspend, cancel or refuse to renew the registration of a registered establishment that is in contravention of subsection (1).

15  Records — laboratories

A laboratory undertaking testing of hay or straw for export must retain records showing, for each sample:

(a) a unique identifier; and
(b) the details of the person who submitted the sample to be tested; and
(c) the date testing was done; and
(d) the method of testing; and
(e) the test results; and
(f) a statement that testing was conducted in accordance with the hay and straw export standard; and
(g) a statement that the person who submitted the sample to be tested was given written notice of the test results; and
(h) a copy of the written notice.
16 Records — exporters

An exporter of hay or straw must retain records showing, in relation to each export of hay or straw that the exporter conducts:

(a) the date of export; and
(b) the destination of the export; and
(c) the full contents of each shipping container of hay or straw exported; and
(d) the test results relevant to each consignment of hay or straw that is in the shipping container; and
(e) the details of the immediately preceding source of the hay or straw (that is, details of the registered establishment, agent or other person who provided the hay or straw to the exporter).

17 Records must be retained

An exporter, a laboratory or a registered establishment must retain the records mentioned in section 14, 15 or 16 for a period of 2 years.
Part 5 Laboratory approval

18 Approval of testers

(1) The Secretary may approve, in writing, a laboratory to conduct testing of hay and straw in accordance with the hay and straw export standard.

(2) In considering whether a laboratory should be approved under subsection (1), the Secretary may have regard to whether the laboratory is accredited by a national accreditation body to conduct testing of a kind required by the hay and straw export standard.

(3) The Secretary may withdraw or suspend an approval given under subsection (1) if a laboratory which was accredited as described in subsection (2), ceases to be accredited.
Part 6 Miscellaneous

19 Compliance with directions
Part 17 of the Prescribed Goods (General) Orders 1985 applies to the export of hay or straw.

20 Services of authorised officers
Part 18 of the Prescribed Goods (General) Orders 1985 applies to the export of hay or straw.

21 Reconsideration of decisions
Part 20 of the Prescribed Goods (General) Orders 1985 applies to the export of hay or straw.

22 Penal provisions
Part 21 of the Prescribed Goods (General) Orders 1985 applies to the export of hay or straw.