Export Inspection (Quantity Charge) Regulations (Amendment) 1998 No. 233

EXPLANATORY STATEMENT

STATUTORY RULES 1998 NO. 233

Issued by the authority of the Minister for Primary Industries and Energy

Export Inspection (Quantity Charge) Act 1985

Export Inspection (Quantity Charge) Regulations (Amendment)

Section 10 of the *Export Inspection (Quantity Charge) Act 1985* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act, and, in particular, exempting a class or classes of a prescribed commodity from charge, and prescribing different rates of charge in respect of different classes of prescribed commodity.

The Export Inspection (Quantity Charge) Regulations (the Regulations) prescribe quantity charges payable by persons in whose name an export permit is issued under the *Export Control Act 1982* by the Australian Quarantine and Inspection Service (AQIS). The quantity charges are part of the mix of charges agreed by industry to recover the costs of providing export inspection services.

The purpose of the amending Regulations is to prescribe revised rates of charge for the inspection of bulk grain to facilitate a streamlined charging structure for the Export Grains Programme and to promote efficiencies in the loading of bulk grains for export.

The revised tonnage charges outlined in the Regulations provide for rates applicable to either non-containerised bulk grains that are loaded at rates exceeding 400 tonnes per hour and are not subject to a certification assurance arrangement, or non-containerised bulk grains that are subject to a certification arrangement. The provision of inspection services for all other commodities within the Export Grains Programme are to be charged on a fee-for-service basis in accordance with the provisions of the Export Control (Fees) Orders.

All revised fees have been developed in conjunction with peak industry bodies, including the Australian Wheat Board and the Australian Barley Board.

The Regulations also provide for the deletion of definitions for dried vegetables and meat products which are no longer applicable under the Act.

The Export Inspection (Quantity Charge) Regulations (Amendment) amends the Regulations as follows:

Regulation 1 - Commencement

Subregulation 1. 1 provides that the Regulations as amended commence on 29 July 1998.

Regulation 2 - Amendment

Subregulation 2.1 provides that the Regulations are amended as set out in the Export Inspection (Quantity Charge) Regulations (Amendment).

Regulation 3 - (Regulation 2, Interpretation)

Subregulation 3.1 omits "dried vegetable" and "meat product´ 'from the list of definitions.

Regulation 4 - (Regulation 3 - Rates of charge)

Subregulation 4.1 omits Subregulation 3(2).

Regulation 5 - (Schedule)

Subregulation 5.1 replaces the Schedule.

AQIS GRAIN EXPORT PROGRAM: CHARGING ARRANGEMENTS

REGULATION IMPACT STATEMENT

1. Introduction

Under the *Export Control Act (1982)* and subsidiary legislation, the AQIS Grain Program is responsible for inspecting and certifying exports of prescribed grains (and non-prescribed grains requiring some form of certificate) to comply with (i) Australian export standards (ii) the requirements of the importing countries and (iii) the principles of the International Plant Protection Convention (IPPC). Currently, the prescribed grains are: wheat, barley, oats, lupins, field peas, sorghum and mung beans. Non-prescribed grains such as rice or maize, when they do not require certification, can be exported without AQIS inspection.

This Regulatory Impact Statement relates to the Export Control (Quantity Charges) Regulations under the Export Control (Quantity Charges) Act 1985 and the Export Control (Fees) Orders under the Export Control Act 1982.

2. Problem

The inspection fee schedule is expected to cover a complex range of circumstances which makes it difficult to simplify the charging mechanisms. AQIS inspects grain, in bulk or in bags, which may be exported either in containers or in ships' holds, and the rate of loading may vary considerably. Moreover, prescribed grains always require inspection, while nonprescribed grains only require inspection when a phytosanitary certificate is required.

Currently, prescribed grains are charged on a tonnage basis and non-prescribed grains on a fee-for-service (FFS) basis. This leads to some costly inequities. A bulk handler at a grain terminal, for example, may load 6,000 tonnes of wheat (prescribed) into one hold of a ship, which could incur an inspection fee of $800*,* calculated at a tonnage rate. The same exporter, however, could load 6,000 tonnes of canola (non-prescribed) into another hold of the same ship, costing $4,000 at the FFS rate. Inspection fees at bulk terminals can therefore vary widely, even when using the same manning levels and the same method of inspection and loading.

If the grain industry is further de-regulated, allowing new players into the market, loading of ships from outside the main terminals could increase in future - and the charging schedule needs to account for this trend. Some grains, such as cottonseed, are sometimes loaded into ships from trucks, outside the terminal facilities, and the loading rate is reduced accordingly. Such ventures are subject to the same delays and problems that beset container loading where FFS rates apply. The current tonnage rate for bulk loading however, is based on the efficiency of existing shipping terminal infrastructure that is capable of loading bulk grain at 400 (or more) tonnes per hour. An increase of 'inefficient' bulk loadings (less than 400 tonnes per hour) would force an increase in the bulk tonnage rate.

Container operators may load five containers in an hour (18-20 tonnes per container). When loading barley (a prescribed grain) this could attract a $400 inspection fee, calculated at a tonnage rate; but when loading the same amount of rice (non-prescribed), for example, on a fee-for-service basis, the inspection fee could be $144, for the same inspection and loading procedures. Charging for containers is further complicated when an exporter is loading a mixture of prescribed and nonprescribed grains within the same hour or over the same day.

Industry has requested through the review and evaluation of the Grain Program (see 6. Consultation) that inequities in the charging mechanism be addressed. In its final report, the evaluation team made the following recommendations:

Recommendation 17: that AQIS recover its costs of inspecting all bulk grain, loaded into ships at (i) 400 (or more) tonnes per hour, by applying a tonnage levy; and (ii) less than 400 tonnes per hour, by applying fee-for-service inspection rates. (Section 27)

Recommendation 18: that AQIS recover its costs of inspecting all containerised grain (bulk and bagged) by applying fee-forservice rates. (Section 27)

3. Objective

AQIS seeks, in consultation with industry, to settle upon simple, streamlined charging mechanisms for its export inspection services that:

* are fair to both AQIS and industry, in that the inspection effort is reflected by an appropriate charge, that provides an incentive to reduce costs through efficient loading;

* are easy to administer, with low overheads;

* are predictable and allow forward planning;

* cover the costs of running the inspection and certification program.

4. Options

Option 1: retain the current tonnage fees for prescribed grains (10.8 cents/tonne)

and fee-for-service rates for non-prescribed grains. ($62-00/half hour)

Option 2: introduce tonnage rates for all inspection services.

Option 3: introduce fee-for-service rates for all inspection services.

Option 4: *for bulk grain loaded into ship holds.--*

(a) a tonnage levy for grain loaded at 400 (or more) tonnes per hour; and

(b) a fee-for-service levy when loading at less than 400 tonnes per hour.

for all containerised grains, either bulk or bagged.. -

(a) an agreed fee-for-service levy.

5. Impact Analysis

Option 1, to retain the current tonnage fees for prescribed grains, and fee-for-service rates for non-prescribed grains, differentiates between prescribed and non-prescribed grains and this focus gives rise to the complexities and inequities outlined in Section 2.

Option 2, a tonnage charge for all inspection services, is attractive in that it is simple; it makes contract negotiations easier since most contracts are agreed on a tonnage basis; and predictable tonnage rates make forward planning easier for both industry and AQIS.

The tonnage rate is appropriate for efficient, bulk loading of prescribed grains at 400 tonnes per hour (or more) at grain terminals. In these circumstances, inspections fees (currently less than 0. 1% of the value of wheat) do not provide an incentive to industry to increase loading efficiencies. The high berthing charges for ships, and the capital equipment and labour costs involved in loading, drive efficiency at bulk terminals far more than AQIS inspection fees which are minuscule by comparison.

Industry recognises, however, that tonnage rates are not appropriate for container loading which can achieve up to 80-100 tonnes per hour, when properly organised. There is no incentive to improve efficiency of loading. Fee-for-service rates, on the other hand, being time-based, provide an incentive to increase the efficiency of loading, thereby reducing the inspection fee.

Option 3, fee-for-service rates for all inspections across the board. Does not provide an incentive to increase the efficiency of loading in bulk grain terminals, where the loading rate is already over 400 tonnes per hour.

As discussed under Option 2, FFS rates are more appropriate for container loading, where they effectively drive efficiencies. AQIS inspectors know from experience just how often loading is delayed or hindered by containers and product not being synchronised effectively. Under fee-for-service, the inspector's down-time is paid for, and, importantly, efficient operations are not subsidising the less efficient, to the same extent as for tonnage rates.

On the debit side, given the unforseen contingencies when loading containers, it is hard for industry to predict accurately total inspection costs under fee-for-service; FFS rates usually have to be converted to tonnage rates for contracts; and forward planning and contract negotiations usually contain an element of uncertainty.

Option 4, involving tonnage rates for bulk grain and fee-for-service rates for containerised grain, seeks to adopt the charging mechanism most appropriate to the style and rate of loading. Fee-for-service rates drive efficiencies only at the lower rates of loading.

Option 4 makes an important distinction between bulk grain loaded at 400 (or more) tonnes per hour, which is charged at the tonnage rate, and bulk grain loaded at less than 400 tonnes per hour, which is charged at the FFS rate. This distinction is necessary because some grains, such as cottonseed, are sometimes loaded into ships from trucks, outside the terminal facilities, and the loading rate is reduced accordingly. Such ventures are subject to the same delays and problems that beset container loading and it is appropriate that FFS rates apply.

6. Consultation

On October 1996, senior officers of the Grain Program, together with members of the then Quarantine and Inspection Advisory Council (QIAC), began a review and evaluation of the AQIS Grain Export Program. A Discussion Paper entitled Export *Inspection: Adding Value to Australia's Grain Sales on the International Market* was a circulated to industry and other interested stakeholders, including State Governments, for comment.

Members of the evaluation team also travelled extensively throughout the grain exporting States, to talk directly to exporters, co-operative bulk handling companies, marketing boards, cleaner/packers and other niche players.

A draft report was circulated to all stakeholders for further comment. The final report of the *Review and Evaluation of the AQIS Grain Export Program* (February 1998),was endorsed by the stakeholders.

The proposed inspection charging arrangements, given in Recommendations 17 and 18, of the report were agreed at the 21 November meeting of the *AQIS-Grain Industry Consultative Working Group* (AGICWG), which is the principal forum through which AQIS consults with industry on a range of strategic, policy, operational, charging and market access issues.

At its meeting on 22 April 1998, the Working Group again endorsed AQIS's proposal to legislate recommendations 17 and 18 into operational practice.

7. Conclusion and Recommendation

Option 1, involving tonnage charges for prescribed grains and fee-for-service charges for

non-prescribed grains, is no longer appropriate, since it focuses on the distinction between prescribed and nonprescribed grains when the 'rate of loading' is the main factor determining inspection costs; it leads to gross inequities; and it does not drive efficiencies.

Options 2 and 3, involving tonnage charges and fee-for-service charges respectively, while they have distinct advantages when applied in appropriate circumstances, are not appropriate when applied across the board.

Option 4 is recommended since it adopts the best attributes of both the tonnage rate and fee for-service rate, when applied appropriately. It recognises that 'rate of loading' is the main determinant of inspection and certification costs. For bulk grain, the faster loading at terminals, where inspection fees do not generally drive efficiencies, can be levied at a reduced tonnage rate. Slower forms of bulk loading, usually outside the main terminals, can be levied at a fee-for-service rate, providing an incentive to increase the efficiency of loading.

For containerised grain, where the rate of loading is generally much less than for bulk grain loaded into ship holds, a fee-for-service levy again provides an incentive for industry to increase efficiency.

Option 4 was agreed in consultation with industry and has been endorsed by industry two times since then. It does not involve any new charges for industry. It simply alters the existing mix of fees, making the charging mechanism more appropriate to the loading system employed.

8. Implementation and review

In accordance with the communication strategy agreed at meetings of the AGICWG, implementation of the new charging mechanism will coincide with the introduction of the 1998199 fee schedule on 1 August 1998. An explanation of the new arrangements will be circulated to AQIS staff by Quarantine Operational Notice, together with a charging guidelines document. Industry will be advised via their representative members of the AGICWG.

A review of the impact of the new charging mechanism will be conducted through formal meetings of the AGICWG, initially at its scheduled meeting on 13 August, 1998 and at subsequent meetings as required. Should efficiency gains generated by the revised charging mechanism reduce AQIS costs, the fee schedule will be amended accordingly. The AGICWG meets formally four times each year and conducts out of session meetings as required.