

Queensland Ruminant Feed Ban Surveillance Program under the *Biosecurity Act 2014*

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1 Biosecurity program

1.1 Program name

The surveillance program (biosecurity program) to monitor compliance with the *Biosecurity Act 2014* (the Act) in relation to restricted animal material will be known as the Queensland Ruminant Feed Ban Surveillance Program (the Program).

2 Requirement for a surveillance program

2.1 Purpose and rationale

The Act provides for the establishment of surveillance programs. Surveillance programs are directed at any of the following—

- (a) monitoring compliance with the Act in relation to a particular matter to which the Act applies;
- (b) confirming the presence, or finding out the extent of the presence, in the State or the parts of the State to which the program applies, of the biosecurity matter to which the program relates;
- (c) confirming the absence, in the State or the parts of the State to which the program applies, of the biosecurity matter to which the program relates;
- (d) monitoring the effects of measures taken in response to a biosecurity risk;
- (e) monitoring compliance with requirements about prohibited matter or restricted matter;
- (f) monitoring levels of biosecurity matter or levels of biosecurity matter in a carrier.

The Program is directed at monitoring compliance with the provisions of the Act relating to

- **prohibitions on the feeding or supplying of restricted animal material (RAM)**
- **RAM statements**

Prions are biosecurity matter (pathogenic agent) that cause Transmissible Spongiform Encephalopathies (TSEs), including bovine spongiform encephalopathy (BSE, also known as 'mad cow disease') in cattle and scrapie in sheep. RAM is a carrier that may contain prions and feeding RAM to ruminants can spread TSEs.

Australia is free of bovine spongiform encephalopathy (BSE) and scrapie. The World Organisation for Animal Health (OIE) has designated Australia as having a 'negligible BSE risk' status (the lowest risk).

Australia's negligible BSE risk status provides considerable trade advantages that are subject to the World Organisation for Animal Health (OIE) and trading partners remaining confident that measures are in place to minimise the risk of the introduction, establishment and spread of TSEs, particularly BSE.

In 2001, Ministers at the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ), now Agricultural Ministers Forum (AGMIN), agreed to enact nationally consistent legislation prohibiting the feeding of RAM to ruminants and requiring the use of RAM statements that identify feed as either containing or not containing RAM. In combination, as enacted by all states and territories, these provisions are the Australian Ruminant Feed Ban (ARFB).

Queensland has implemented nationally consistent legislation to give effect to the ARFB in Queensland.

Offences relating to the feeding of RAM to ruminants or labelling of feed with RAM statements pose a biosecurity risk of an adverse effect on the economy (as a consequence of lost export markets) caused by, or likely to be caused by dealing with or carrying out an activity relating to RAM.

The national Transmissible Spongiform Encephalopathies Freedom Assurance Program (TSEFAP) was established by industry, the Australian Government and state and territory government partners via Animal Health Australia (AHA) to ensure a nationally integrated approach to animal TSE risk-reduction measures that meets international standards.

As part of the TSEFAP, Ministers with agriculture portfolios at the federal and state levels committed to implementing the Ruminant Feed Ban Compliance Scheme (RFBCS). The RFBCS commits state and territory governments to implement a comprehensive, risk-based compliance inspection program that targets all sectors in the feed chain.

The objectives of the RFBCS are described in the Ruminant Feed Ban Compliance Scheme Management Plan and reviewed annually. As of July 2016 those objectives were:

- BSE prevention – to ensure through legislative compliance that, in the unlikely event of BSE entering/occurring in Australia, it will not be spread through stockfeeds.
- Market confidence - to maintain a nationally integrated inspection and feed testing system to ensure and demonstrate compliance with legislation that bans the feeding of RAM to ruminants

The TSEFAP and RFBCS are managed by AHA. The RFBCS is planned and implemented through the National Advisory Committee, comprised of representatives from relevant livestock industries, the Australian Government, and state and territory animal health agencies. The operational details of the RFBCS are published by AHA in the Australian Ruminant Feed Ban National Uniform Guidelines (NUGs).

Authorisation of the Program provides authorised officers of Biosecurity Queensland with the powers necessary to implement effective monitoring and enforcement of the ruminant feed ban in Queensland, and so meet our commitments under the TSEFAP RFBCS and maintain confidence that measures are in place that protect public health and the interests of trade.

2.2 Measures that are required to achieve the purpose

The key activities undertaken by the Program include but are not limited to:

- Entry to a place to monitor compliance
- Establishing the level of awareness of the requirements of the RFB
- Examining RAM statements on bagged and bulk feed, invoices and delivery dockets
- Examining manufacturing and formulation records
- Examining the storage and transport of feed and feed ingredients
- Establishing how feeds are stored and used
- Establishing whether feeds sold, supplied or fed to ruminants contain RAM, including whether they may be contaminated with RAM
- Sampling feed and testing for the presence of RAM

2.3 Powers of authorised officers

Entry of place

The Act provides that authorised officers appointed under the Act may, at reasonable times, enter a place situated in an area to which a biosecurity program applies, to take any action authorised by the biosecurity program¹. These activities must be done in a timely and efficient manner to ensure that the measures are as effective as possible. The Program will authorise entry into places to allow these measures to be undertaken.

In accordance with the Act a reasonable attempt will be made to locate an occupier² and obtain the occupier's consent to the entry prior to an authorised officer entering a place to undertake activities under the Program. Nevertheless, an authorised officer may enter the place if³—

- (a) the authorised officer is unable to locate an occupier after making a reasonable attempt to do so;
or
- (b) the occupier refuses to consent to the entry.

If after entering a place an authorised officer finds an occupier present or the occupier refuses to consent to the entry—an authorised officer will make reasonable attempts to produce an identity card for inspection and inform the occupier of the reason for entering and the authorisation under the Act to enter without the permission of the occupier. An authorised officer under the program must make a reasonable attempt to inform the occupier of any steps taken, or to be taken, and if steps have been taken or are to be taken, that it is an offence to do anything that interferes with a step taken or to be taken.

If an occupier was not located, an authorised officer must leave a notice in a conspicuous position and in a reasonably secure way. This notice must state the date and time of entry and information addressing the reason for entry, authorisation to enter a place and the steps undertaken by the authorised officer after entry.

Obligations

A person may be required to give the authorised officer reasonable help in the execution of their powers to monitor compliance with the prohibitions on feeding or supplying RAM and the requirements relating to RAM statements for feed; including to:

- provide access to an area of the place, or equipment used for the rendering, manufacture, sale, supply, storage or transport of feed or an feed ingredient
- provide access to areas in which feed is stored and ruminants are fed and kept
- provide safe access to feed to enable examination and/or sampling. This may include moving palates of bagged feed, opening containers of feed, or providing access to bulk feed or feed being manufactured
- provide access to hard copy or electronic documentation or provide information about the rendering, manufacture, sale, supply, storage or transport of feed or an feed ingredient.

General powers of authorised officers

Nothing in the Program or its associated Authorisation limits the powers of authorised officers under Chapter 10 of the Act.

¹ See section 261 (Power to enter a place under biosecurity program) of the Act.

² The Act defines an **occupier**, of a place, generally to include the person who apparently occupies the place (or, if more than 1 person apparently occupies the place, any of the persons); any person at the place who is apparently acting with the authority of a person who apparently occupies the place; or if no-one apparently occupies the place, any person who is an owner of the place.

³ See section 270 (Entry of place under sections 261 and 262) of the Act.

2.4 Consultation

Since the late 1990's there has been extensive and ongoing consultation with industry, the Australian Government and the states and territories about the requirements of the ARFB and the implementation of the RFBCS. This high level of consultation is maintained by AHA through AHA's management of the TSEFAP, including that the National Advisory Committee reviews the RFBCS and NUGs annually.

The local governments within the area to which the Program relates have been consulted.

3 Authorisation of a surveillance program in the State of Queensland

I, Dr Elizabeth Woods, the chief executive of the Department of Agriculture and Fisheries (the Department) acting pursuant to section 235 of the *Biosecurity Act 2014* (the Act), authorise the Queensland Ruminant Feed Ban Surveillance Program (the Program) in Queensland, on the basis that monitoring compliance with the ruminant feed ban in Queensland is necessary to protect human health and maintain market confidence in Australia's 'negligible risk' status for BSE and scrapie.



Dr Elizabeth Woods
Director-General
Department of Agriculture and Fisheries

Authorised on 02/09/2016

3.1 Biosecurity matter

The biosecurity matter to which the Program relates is the prions that cause transmissible spongiform encephalopathies (TSEs), in particular prions that cause bovine spongiform encephalopathy (BSE, also known as 'mad cow disease') and scrapie.

Restricted animal material (RAM) is a carrier that may contain prions.

3.2 Purpose of the Program

The purpose of the Program in the State of Queensland is to monitor compliance with the provisions of the Act relating to

- Prohibitions on the feeding or supplying of RAM
- RAM statements

3.3 Area affected by the Program

The Program will apply to all places, other than residences, within the State of Queensland where

- a person renders, manufactures, sells, supplies or stores feed or feed ingredients, or
- ruminants are kept or reasonably believed to be kept

3.4 Powers of authorised officers

An authorised officer of the Program appointed under the Act, may enter a place—other than a residence⁴—without a warrant and without the occupier's consent within the State of Queensland under the Program⁵. An authorised officer appointed under the Act will also have the power to enter a place under the Program.⁶

⁴ The Act defines a **residence** to mean a premises or a part of a premises that is a residence with the meaning of section 259(2) and 259(3).

⁵ See section 259 (General powers to enter places) of the Act.

⁶ See section 261 (Power to enter a place under biosecurity program) of the Act.

An authorised officer can exercise the powers of an authorised officer under the Act in relation to the Program, if the authorised officer is appointed by the chief executive⁷.

An authorised officer has general powers after entering a place to do any of the following⁸:

General powers in the Act	Measures an authorised officer may take under the Program
Search any part of the place	<i>Search a place to check for the presence or absence of feed or ingredients for feed.</i>
Inspect ⁹ , examine ¹⁰ or film ¹¹ any part of the place or anything at the place	<i>Inspect, examine and film to assist with tracing of RAM and feed to, from and within a place.</i>
Take for examination a thing, or a sample of or from a thing, at the place	<i>Take samples for the purposes of diagnostic analysis, to ascertain the presence or absence of RAM in feed.</i>
Place an identifying mark in or on anything at the place	<i>Identify carriers such as ruminants that have been fed RAM with tags, notices, flags or signs for any purpose consistent with the Program.</i>
Place a sign or notice at the place	<i>Identify carriers such as ruminants that have been fed RAM with tags, notices, flags or signs for any purpose consistent with the Program.</i>
Produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing	<i>Produce a written and/or electronic note(s) to support Program activities.</i>
Take to, into or onto the place and use any person, detection animal, equipment and materials the authorised officer reasonably requires for exercising the authorised officer's powers under this division	<i>Take GPS coordinates to ensure accuracy of location details of ruminants or RAM or feed.</i>
Destroy biosecurity matter or a carrier if: <ul style="list-style-type: none"> • the authorised officer believes on reasonable grounds the biosecurity matter or carrier poses a significant biosecurity risk • the owner of the biosecurity matter or carrier consents to its destruction. 	<i>Take a document such as a feed formulation, invoice or delivery docket that is relevant to the objectives of the Program.</i>
Remain at the place for the time necessary to achieve the purpose of the entry	
The authorised officer may take a necessary step to allow the exercise of a general power	
If the authorised officer takes a document from the place to copy it, the authorised officer must copy and return the document to the place as soon as practicable	
If the authorised officer takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised officer must produce the document and return the article or device to the place as soon as practicable.	

⁷ See section 255 (3) (Powers of particular authorised officers limited) of the Act.

⁸ See section 296 (General powers) of the Act.

⁹ Section 296(5) defines **inspect**, a thing, to include open the thing and examine its contents.

¹⁰ Section 296(5) defines **examine** to include analyse, test, account, measure, weigh, grade, gauge and identify.

¹¹ Section 296(5) defines **film** to include photograph, videotape and record an image in another way.

An authorised officer may make a requirement (a **help requirement**) of an occupier of the place or a person at the place to give the authorised officer reasonable help to exercise a general power¹².

3.5 OBLIGATIONS IMPOSED ON A PERSON UNDER THE PROGRAM

The following obligations may be imposed on a person who is an occupier of a place to which the Program relates:

A person may be required to give the authorised officer reasonable help in the execution of their powers to monitor compliance with the prohibitions on feeding or supplying restricted animal material for ruminants and the requirements relating to RAM statements for feed; including to:

- provide access to an area of the place, or equipment used for the rendering, manufacture, sale, supply, storage or transport of feed
- provide access to areas in which feed is stored and ruminants are fed
- provide safe access to feed to enable examination and/or sampling. This may include moving palates of bagged feed, opening containers of feed, or providing access to bulk feed or feed being manufactured
- provide access to hard copy or electronic documentation or provide information about the rendering, manufacture, sale, supply, storage or transport of feed.

3.6 Commencement and duration of the Program

The Program will begin on 1 October 2016 and will be ongoing.

The duration of the Program is considered to be reasonably necessary to achieve the Program's purpose.

3.7 Consultation with relevant parties

As required by the Act¹³, I have consulted, prior to the authorisation of the Program, with all the local governments within the State of Queensland, which are the local governments for the areas to which the Program applies.

3.8 Notification of relevant parties of requirements

As required by the Act¹⁴, I will give public notice of the Program 14 days before the Program starts by:

- giving the notice, by way of letter, to each government department or government owned corporation responsible for land in the area to which the Program relates; and
- publishing the notice on the Department's website.

A copy of the Program (including its Authorisation) is available for inspection at the Department of Agriculture and Fisheries head office at 80 Ann Street Brisbane and regional offices. A copy of the Program is also available to view and print at no cost on the Department of Agriculture and Fisheries website at www.daf.qld.gov.au. A copy of the Program Authorisation will be provided on request by contacting the Department of Agriculture and Fisheries Customer Service Centre on 13 25 23.

¹² See section 297 (Power to require reasonable help) of the Act.

¹³ See section 239 (Consultation about proposed biosecurity program) of the Act.

¹⁴ See section 240 (Notice of proposed biosecurity program) of the Act.