

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Agriculture, Fisheries and Forestry

Export Control (Orders) Regulations 1982

Export Control (Plants and Plant Products) Amendment Orders 2007 (No.1)

Section 3 of the *Export Control Act 1982* ('the Act') defines 'prescribed goods' to mean goods, or goods included in a class of goods, that are declared by the regulations to be prescribed goods for the purposes of the Act. Section 7 of the Act provides that the regulations may prohibit the export of prescribed goods from Australia absolutely or to a specified place or unless specified conditions or restrictions are complied with or to a specified place unless conditions or restrictions are complied with.

Subsection 25(1) of 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 for giving effect to the Act. The matters that the regulations may make provision for include:

- under paragraph 25(2)(f) of the Act, the prescribing of penalties not exceeding 50 penalty units for offences against the regulations; and
- under paragraph 25(2)(g) of the Act, subject to subsection 25(3) of the Act, empowering the Minister to make orders, not inconsistent with the regulations, with respect to any matter for or in relation to which provision may be made by the regulations.

Subsection 25(3) of the Act states that an order shall not be made prescribing any penalty for an offence.

Regulation 3 of the *Export Control (Orders) Regulations 1982* provides that the Minister may, by instrument in writing, make orders, not inconsistent with regulations made under the Act, with respect to any matter for or in relation to which provision may be made by regulations made under the Act.

The *Export Control (Plants and Plant Product) Orders 2005* ('the Principal Orders') regulate the export of plants and plant products that are prescribed goods.

The purpose of the *Export Control (Plants and Plant Products) Amendment Orders 2007 (No.1)* (*the Amendment Orders*) is to amend the Principal Orders to bring mung beans within the scope of the Principal Orders. Previously mung beans for export have been principally regulated by the *Export Control (Mung Beans) Orders* (the Mung Beans Orders). The amalgamation results in the following key changes in relation to mung beans:

- the revision of out of date terms and definitions;
- insertion of a schedule for the requirements for registered establishments for mung beans. The provisions of this schedule were previously covered by reference to the Code of Hygienic Practice for Oilseeds, Pulses and Legumes (the Code). The Code has been

removed as a document incorporated by reference and instead the terms of the Code have been directly reflected in the legislation;

- the application of approved arrangements in place of superseded Approved Quality Assurance arrangements;
- removal of the requirement for Australian Quarantine and Inspection Service (AQIS) officers to certify that mung beans are fit for human consumption and have not been adulterated or have in or upon them any substance which renders the food poisonous, harmful or otherwise injurious to health. AQIS will continue to inspect and provide export certification for mung beans (including phytosanitary certificates where it is an importing country requirement);
- insertion of a schedule formalising sampling and inspection requirements for mung beans; and,
- clarification of the requirement for a valid export permit to be in force at the time of export.

The uniqueness of the mung bean export market is being acknowledged by inserting separate schedules to deal solely with the procedures and processes for exporting mung beans.

Extensive external consultation was undertaken with industry on the making of these amendments to the Principal Orders. Consultation occurred with exporters and registered establishment operators. Consultation was also undertaken with the peak industry body, the Australian Mungbean Association (AMA), and the AQIS/Grains Industry Consultative Committee (AGICC), the principal forum by which AQIS consults with the grain industry on export certification issues.

In April 2007, a draft of the proposed amendments was distributed to industry for comment. AQIS met with the AMA in June 2007 to discuss minor issues and a revised draft of the proposed amendments was subsequently distributed to industry for further comment. The final consultation period closed on 27 July 2007. The AMA provided written endorsement of the proposed amendments to the Principal Orders and no other submissions were received from industry.

The Office of Best Practice Regulation advised that the amendments would have a low impact on business, and would appear to impose no or low compliance costs.

The Amendment Orders are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Details of the Amendment Orders are set out below:

Order 1

1. This order provides that the name of these Orders is the *Export Control (Plants and Plant Products) Amendment Orders 2007 (No. 1)*.

Order 2

2. This order provides that these Orders commence on 1 November 2007. This will allow time, if necessary, for exporters of mung beans to make the changes required to align their operations with the requirements of these Amendment Orders.

Order 3

3. This order provides that Schedule 1 amends the *Export Control (Plants and Plant Products) Orders 2005*.

Schedule 1 Amendments

[1] After paragraph 3.1(d)

The insertion of paragraph 3.1(da) by this item is required to bring mung beans within the scope of the Principal Orders. This puts beyond doubt the issue of whether Order 3 of the Principal Orders already regulates mung beans requiring phytosanitary certification.

[2] Paragraph 3.1(e)

This item amends paragraph 3.1(e) for consistency purposes, as mung beans are listed in new item 3.1(da).

[3] Suborder 4.1, after the definition of *master*

This item inserts a definition of the word '*mung beans*'. The definition inserted by this item is identical to the definition previously contained in Order 4 of the Mung Beans Orders.

[4] Suborder 4.1, definition of *prescribed goods for consumption*

This item amends the definition of '*prescribed goods for consumption*' contained in Order 4 of the Principal Orders to include all mung beans intended for export.

This item removes the requirement for authorised officers to certify that mung beans must be fit for human consumption as was previously prescribed in Order 12 of the Mung Beans Orders. This requirement has been removed because visual inspection of the mung beans at the time of certification is not sufficient for an approved inspector to form a reasonable belief that the goods are "sound, wholesome and fit for human consumption". The definition of '*prescribed goods for consumption*' applies to all mung beans, regardless of the intended end use. The effect of including mung beans in this definition is to require a more stringent inspection regime to be applied to the container system units in which mung beans are to be transported.

It should be noted that the issuance of export certification for mung beans does not provide assurance of the suitability of the product for consumption.

[5] Order 7.1

This item makes it clear that a separate schedule now applies in relation to registered establishments for mung bean exports (see Schedule 3A).

[6] After order 7.2 but before the Note

This item makes it clear that the requirements imposed on registered establishments for mung bean exports have been inserted as a separate schedule in the Principal Orders to manage the specific risks associated with the handling and preparation of mung beans at those establishments (see Schedule 3A).

[7] After suborder 10.2

This item inserts the requirement that bagged mung beans must have the registered establishment number printed on each bag. This requirement was previously contained in Order 15.2 of the Mung Beans Orders.

The requirement that bagged mung beans must also have the lot number printed on the bag was a requirement of clause 5.4.1 of the Code). This document was incorporated by reference into the Mung Beans Orders. In this context the lot number refers to a number of units of mung beans (eg bags or cells of bulk mung beans), identifiable by homogeneity of composition, origin etc., forming part or all of a consignment.

[8] After order 14

This item inserts a new Order 14A that deals with extra packaging requirements for mung beans. This item also makes it clear that in addition to complying with Order 14A, exporters must also comply with Order 14 of the Principal Orders. The packaging requirements for mung beans were previously contained in Order 14 of the Mung Beans Orders.

[9] Order 48

The effect of item 9 is to allow an export permit for mung beans to be used as a certificate as to condition, unless separate certification is necessary to meet the requirements of an importing country authority. The purpose of the certificate as to condition is to provide the importing country authority with assurance that their specific entry conditions have been met. The provision for issuing a certificate as to condition for mung beans was previously contained in Note 3 to Part 7 of the Mung Beans Orders. The inclusion of mung beans in Order 48 of the Principal Orders also reflects current practice for other plants and plant products.

[10] After suborder 49.3A

This item inserts the requirements for the sampling and inspection of mung beans intended for export as a separate schedule (Schedule 6A) in order to manage the specific risks associated with mung beans. The requirements for sampling and inspection of mung beans were not previously specified in the Mung Beans Orders. The insertion of Schedule 6A formalises the procedures that have been applied since the inception of the Mung Bean Orders. These procedures were set out in the ‘The Australian Export Mung Bean Manual’ (the Manual), a document first published by AQIS in 1992. The Manual was not incorporated by reference into the Mung Bean Orders, but was published as a guide to exporting mung beans for industry.

[11] After Schedule 3

This item inserts a new Schedule 3A into the Principal Orders. The purpose of this schedule is to define the requirements that must be met in relation to registered establishments for mung bean exports. Previously, Orders 8, 9, 10 and 11 of the Mung Beans Orders referred to Sections II, III, IV and V of the Code and Part 4 of the *Export Control (Prescribed Goods – General) Order 2005* (the General Order).

Schedule 3A still maintains the provisions required to manage the risks specifically associated with the handling and presentation of mung beans, but has been drafted in a style consistent with Schedule 2 of the Principal Orders. Clauses that have been inserted in Schedule 3A which were not previously contained in the Mung Beans Orders are:

Clauses 1 – 3

These clauses relate to the general requirements regarding the application for registration, requirements for plans and specifications and alterations, extensions and rearrangements for establishments. These clauses have been inserted to align with the general requirements for registered establishments for the export of other plants and plant products as defined in Part 1 of Schedule 2 of the Principal Orders.

Clause 5.2

This subclause draws attention to the requirement for other applicable regulations outside of those defined in these Orders to be adhered to in relation to equipment provided for the fumigation or treatment of mung beans and does not add any further regulatory burden.

Section II of the Code has not been included in the revised Principal Orders. This section of the Code deals with hygiene requirements on the farm and during transport to the registered establishment which is outside of the jurisdiction of the Principal Orders and the Department administering the Orders.

SCHEDULE 3A – REQUIREMENTS FOR REGISTERED ESTABLISHMENTS FOR MUNG BEANS

Clause 1 – Application for registration of establishment

The purpose of this clause is to require that a written application be made to an authorised officer in the state or territory in which the establishment is located. This requirement was previously contained in Order 9 of the Mung Bean Orders, but has been expanded to ensure consistency with the general requirements for other prescribed plants and plant products as detailed in Schedule 2 of the Principal Orders.

Clause 2 – Requirements for plans and specifications

The purpose of this clause is to require plans or diagrams of the establishment to be provided to an authorised officer, with other specific information, to enable the consideration of the establishment for registration. The plans and specifications enable an authorised officer to consider the appropriateness of the structure and operational layout of the establishment.

This requirement was previously contained in Order 9 of the Mung Bean Orders, but has been expanded to ensure consistency with the general requirements for other prescribed plants and plant products as detailed in Schedule 2 of the Principal Orders.

Clause 3 – Alterations, extensions and rearrangements to establishments

This clause imposes a requirement on the occupier of the establishment to submit to an authorised officer official notification of alterations, extensions and rearrangements to a registered establishment or its operations that may adversely affect the hygienic management of the establishment.

This requirement was previously contained in Order 9 of the Mung Bean Orders, but has been expanded to ensure consistency with the general requirements for other prescribed plants and plant products as detailed in Schedule 2 of the Principal Orders.

Clause 4 – Records to be maintained

This clause sets out the processes and operations of registered establishments that are required to be recorded for monitoring purposes. These records are required to be kept for at least two years, so that an approved inspector can verify that appropriate management of the mung beans is being undertaken. A similar requirement was provided for by Order 10 of the Mung Bean Orders and Clause 5.5.1 of the Code. The new Clause 4 is more prescriptive as to the types of records that are required to be kept and the time frame for which they are to be retained by owners/operators of registered establishments.

Clause 5 – Structural requirements for establishments preparing mung beans

The purpose of Subclause 5.1 is to define the minimum structural standards required for registered establishments. The effect of this clause is to restrict registration to those establishments that have facilities to efficiently, effectively and hygienically prepare mung beans for export through appropriate design and construction features. Similar requirements were previously contained in Orders 10 and 11 of the Mung Bean Orders and by various parts of Clauses 3 and 4 of the Code.

Failure of the establishment to comply with the structural, equipment and processing standards for mung beans may result in an application for registration being rejected or approved subject to conditions. Failure to maintain the standards specified in this clause may result in the suspension, variation or revocation of the establishment's registration under the General Order.

The purpose of Subclause 5.2 is to require equipment provided to perform fumigation or treatment of mung beans to be constructed, tested, maintained and operated in accordance with applicable local government, State, Territory and Commonwealth regulations.

The purpose of Subclause 5.3 is to require owner/occupiers to provide suitable facilities for inspection activities including facilities that would assist with sampling and inspection (unless otherwise approved by the Secretary). Failure of owner/occupiers to comply with the requirements of Subclause 5.3 may result in an application for registration being rejected or approved subject to conditions. Failure to maintain the requirements specified in this subclause may result in the suspension, variation or revocation of the establishment's registration under the General Order.

The purpose of Subclause 5.4 is to require owner/occupiers of the establishments to provide facilities for safe and effective inspection of mung beans being exported in bulk. The facilities required vary depending on whether the establishment handles mung beans in bulk at rates greater than 400 tonnes per hour or less than 400 tonnes per hour.

In particular the subclause requires that if an establishment handles mung beans in bulk at a rate of 400 tonnes per hour or more, then a reliable automatic sampling system must be in place. This requirement is necessary because it is unsafe for approved inspectors to take manual samples from the flow path when loading at rates of greater than 400 tonnes per hour. In addition, an appropriate screening system is needed to prevent the automatic sampling system from becoming blocked by large contaminants. Subclause 5.4 also sets out requirements for sampling rooms at establishments handling mung beans in bulk at a rate of 400 tonnes per hour or more. These requirements are necessary for occupational health and safety reasons and also to allow the loading of the mung beans to be stopped if required.

If an establishment handles mung beans in bulk at a rate less than 400 tonnes per hour, provision must be made for the collection of samples in a safe and effective manner. This may be achieved via the use of an automatic sampling system if the owner/occupier of the establishment chooses to use one, but it is not required unless stipulated by the Secretary (see paragraph 5.4(b)(ii)).

Clause 6 – Operational and hygiene requirements for establishments preparing mung beans

These subclauses specify operational and hygiene requirements for registered establishments at which mung beans are prepared and/or presented for inspection.

The effect of this item is to set out requirements that must be complied with, including personal hygiene requirements for staff, waste removal requirements, and requirements relating to the exclusion of potentially disease carrying animals such as dogs, birds, rodents and vermin.

Previously operational and hygiene requirements were dealt with by Order 10 of the Mung Bean Orders and a number of subclauses in Clauses 4 and 5 of the Code.

[12] After Schedule 6

This item inserts a new Schedule 6A which defines the processes and procedures necessary for the sampling and inspection of mung beans intended for export.

The intent of this schedule is to ensure that consistent practices are applied to provide the necessary level of confidence that appropriate sampling, inspection and rejection methods are applied to mung beans, providing a consistent standard of export certification.

Previously the processes and procedures for the sampling and inspection of mung beans were set out in a document published by AQIS in 1992 titled the Australian Export Mung Bean Manual (the Manual). This document was not incorporated by reference into the Mung Bean Orders and was published as a guide to exporting mung beans for industry. The Manual stated that the inspection of mung beans for export should follow that of Schedule 5 of the *Grains, Plants and Plant Products Orders* (which have subsequently been repealed and remade as Schedule 6 of the Principal Orders). The Manual also included additional information addressing the specific risks associated with mung beans.

Accordingly the new Schedule 6A mirrors many of the requirements in Schedule 6 of the Principal Orders but includes the following modifications to reflect the specific risks associated with the export of mung beans:

- a nil tolerance for pests and certain contaminants in inspected samples and on bags presented for inspection;
- blending of rejected mung beans is not permitted as a treatment for insect infestation or as a method of cleaning for contaminants for which there is a nil tolerance;
- brushing or other mechanical means of cleaning the outside of bags to remove pests or contaminants is not permitted; and
- rejected mung beans are not to be re-presented for inspection unless they have been treated or cleaned in such a way that they meet conditions for export.

The schedule is broken down into five parts:

PART 1 – GENERAL

PART 2 – BAGGED MUNG BEANS

PART 3 – MUNG BEANS IN BULK

PART 4 – MUNG BEANS INSPECTED FOR PHYTOSANITARY CERTIFICATION

PART 5 – TREATMENT OR CLEANING OF MUNG BEANS AND THEIR RE-PRESENTATION

SCHEDULE 6A - INSPECTION PROCEDURES FOR MUNG BEANS

PART 1 - GENERAL

Clause 1 – Sampling rate

This clause defines the rate of sampling of mung beans and determines that if this rate would be insufficient to enable an inspection to be made, then additional mung beans may be drawn. This sampling rate is consistent with sampling rates for inspection of prescribed grain and certain other prescribed goods for which a phytosanitary certificate is required.

Clause 2 – Nil tolerance for pests and certain contaminants

This clause defines a nil tolerance for pests and certain contaminants which must be applied to all mung beans presented for inspection. It also sets out the actions to be taken upon the detection of pests and the specified contaminants.

The effect of this clause is that mung beans presented for inspection with pests, or contaminants for which a nil tolerance applies, will result in rejection of the mung beans for export. Further, this provision requires that if contaminants other than those to which a nil tolerance applies are detected during inspection of the mung beans, the approved inspector must report the contamination to the person responsible for the mung beans and may cause the loading to be halted. This requirement builds on the requirements in Clause 12 of the Mung Bean Orders but has been expanded to include a nil tolerance for pests and certain contaminants either in samples of mung beans or on bags of mung beans. This follows the previously recommended sampling and inspection requirements set out in the Manual published by AQIS.

Clause 3 – Treatment and cleaning of rejected mung beans

Subclause 3.1 provides for the treatment of mung beans rejected due to pests in accordance with Part 5. This subclause only allows treatment of rejected mung beans to be ordered where the rejection is for a reason that will respond to treatment.

Subclause 3.2 provides for the cleaning of mung beans rejected due to the presence of contaminants for which there is a nil tolerance in accordance with Part 5. This subclause only allows cleaning of rejected mung beans to be ordered where the rejection is for a reason that will respond to cleaning.

This requirement was not previously contained in the Mung Bean Orders but was set out in the Manual published by AQIS. The requirements in this clause are consistent with requirements for treatment of pests and cleaning of contaminants in the Principal Orders

for other prescribed grains and certain other prescribed goods for which a phytosanitary certificate is required.

It should be noted that the definition of the term ‘treatment’, as set out in Order 4 of the Principal Orders, limits treatment to the control or eradication of pests only. Examples of treatments in these circumstances include fumigation of mung beans after the detection (during inspection) of insects or grading to remove regulated weed seeds.

Subclause 3.2 does not permit treatment of mung beans rejected due to the detection of contaminants for which there is a nil tolerance. Cleaning is the only acceptable remedial action upon detection of contaminants.

Clause 4 – Site of inspection

This clause details standards for the site of inspection that must be met. The purpose of this clause is to minimise the risk to the safety of the approved inspector conducting the inspection. This is consistent with the requirements in the Principal Orders for inspection sites for other prescribed grains and certain other prescribed goods for which a phytosanitary certificate is required.

PART 2 – BAGGED MUNG BEANS

This part defines the procedures for sampling and inspection of bagged mung beans. The purpose of this part is to ensure that consistent practices are applied in relation to bagged mung beans.

Clause 5 – Inspection procedures for bagged mung beans being loaded into ships’ holds or container system units

This clause sets out the procedures to be followed for the inspection of bagged mung beans. These procedures apply to both the mung beans and the bags containing the mung beans, being loaded into a ships hold or a container system unit.

The purpose of this clause is to define the specific procedures that are to be undertaken by the approved inspector in order to provide a random and representative sample for inspection of the bagged mung beans being loaded into ships’ holds or container system units.

This clause is consistent with current practice set out in Schedule 6 of the Principal Orders for the inspection of other bagged prescribed grains and certain other prescribed goods for which a phytosanitary certificate is required.

Clause 6 – Rejection procedures if pests found in bagged mung beans being loaded into ships’ holds or container system units

This clause details the rejection procedures if pests are found in bagged mung beans. These rejection procedures apply to both the mung beans and the bags containing the mung beans, being loaded into a ships hold or a container system unit.

The purpose of this clause is to define the specific procedures that are to be undertaken by the approved inspector in order to reject bagged mung beans being loaded into ships’ holds or container system units after the detection of pests.

This clause reflects the procedure detailed in Schedule 6 of the Principal Orders for the rejection of other bagged prescribed grains and certain other prescribed goods for which a phytosanitary certificate is required.

Clause 7 - Rejection procedures if contaminants for which there is a nil tolerance found in bagged mung beans being loaded into ships’ holds or container system units

This clause details the rejection procedures if contaminants (for which there is a nil tolerance) are found in bagged mung beans. These rejection procedures apply to both the mung beans and the bags containing the mung beans, being loaded into a ships hold or a container system unit.

The purpose of this clause is to define the specific procedures that are to be undertaken by the approved inspector in order to reject bagged mung beans being loaded into ships’ holds or container system units after the detection of contaminants for which there is a nil tolerance.

This clause broadly reflects the procedure detailed in Schedule 6 of the Principal Orders for the rejection of other bagged prescribed grains and certain other prescribed goods for which a phytosanitary certificate is required. Some modifications have been made to reflect the specific concerns surrounding contamination of mung beans, these were previously set out in the Manual published by AQIS.

Clause 8 - Inspection of container system units for bagged mung beans

Subclause 8.1 requires that empty container system units be inspected in accordance with Part 2 of Schedule 5 of the Principal Orders before loading of mung beans is permitted. This subclause essentially reiterates the requirement of Subdivision B of Part 5 of the Principal Orders to put it beyond doubt that empty container system units be inspected in accordance with Part 2 of Schedule 5 before loading of mung beans is permitted.

Subclause 8.2 makes provision for inspection of mung beans loaded into a container system unit in the absence of an approved inspector. In this situation, the bagged mung beans must be unpacked from the container system unit, the empty container system unit

must be inspected in accordance with Subclause 8.1, and the inspection and rejection procedures of Clauses 5, 6 or 7 of Schedule 6A apply as appropriate.

Clause 9 – Palletised mung beans in rodent plague areas

This clause makes provision for the palletisation of mung beans to be prohibited or for the pallets to be broken down to facilitate inspection of the mung beans in times of rodent plague.

PART 3 – MUNG BEANS IN BULK

This part defines the procedures for sampling and inspection of mung beans in bulk. The purpose of this part is to ensure that consistent practices are applied in relation to mung beans in bulk.

Clauses 10 – 14

Clause 10 – Method of manual sampling

Clause 11 – Sieving the sample

Clause 12 – Rejection procedures if pests found in stream from storage cell to ship

Clause 13 – Rejection procedures if contaminants for which there is a nil tolerance found in stream from storage cell to ship

Clause 14 – Undue delay after detecting pests or contaminants for which there is a nil tolerance

The purpose of Clauses 10 to 14 is to define the processes and procedures required for appropriate performance of sampling, inspection, and rejection of mung beans in bulk being loaded into ships' holds for the purpose of issuing an export permit and, where required, a phytosanitary certificate for mung beans.

Failure to perform certain operations in accordance with these clauses may result in rejection of the mung beans presented for inspection, suspension of the loading of the mung beans or the registration of the establishment being suspended, varied or revoked.

Historically, mung beans have generally been exported in bags as containerised trade. Provisions have been included for the export of mung beans in bulk in ships' holds so that a consistent standard of export certification is applied if mung beans are exported in bulk. Consistent practices are necessary to provide importing country authorities with confidence that appropriate sampling, inspection and rejection methods are used in relation to mung beans in bulk.

Clause 15 – Method of rejecting

Subclause 15.1 allows the Secretary to determine variation to the rejection procedures if the procedures specified in Clauses 12 and 13 are not appropriate due to the construction or operation of the establishment.

Subclause 15.2 defines the rejection procedures for blended mung beans if blending is being carried out during the pre-weighing or loading of a ship.

Subclause 15.3 requires an approved inspector to notify a responsible person on an approved form that treatment or cleaning of the mung beans is required before the rejected mung beans can be re-presented for inspection. The responsible person must return this form with details of how the mung beans have been treated or cleaned before the mung beans can be re-presented for inspection.

The purpose of Subclause 15.4 is to allow the Secretary to determine the maximum number of rejections that may be made during the loading of a ship before loading must be stopped.

Clause 16 – Screening of mung beans

This clause prohibits the use of screening to remove live insects because the screening process may not be an effective remedial treatment method for removing all life stages of insect infestations from the mung beans to render the mung beans suitable for export. The reason why screening is not a suitable process is because it usually provides only short-term cosmetic reduction of the adult populations until eggs and pupae hatch to re-establish the infestation.

This clause also prescribes screening of large contaminants when automatic sampling is in use to avoid the blocking of automatic sampling systems by large contaminants. Screenings of large contaminants for the purpose of Subclause 16.3 must be examined by an approved inspector to ensure that no contaminants for which a nil tolerance applies were present in the mung beans.

Clause 17 – Sampling of mung beans by persons other than approved inspectors

The purpose of this clause is to require any person, other than an approved inspector, who may be drawing a sample of mung beans, to inform the approved inspector if pests or contaminants for which there is a nil tolerance are detected in any sample.

Clauses 18 – 20

Clause 18 – Inspection of mung beans in bulk being loaded into container system units

Clause 19 – Inspection of mung beans in bulk in container system units filled in the absence of an approved inspector

Clause 20 – Rejection procedures for bulk mung beans in container system units

The purpose of Clauses 18-20 is to define specific procedures for random and representative sampling, inspection, and rejection of bulk mung beans being loaded into a container system unit, and the specific sampling procedures that must be performed if the container system unit is loaded in the absence of an approved inspector.

Historically mung beans have generally been exported in bags as containerised trade. Provisions have been included for the export of mung beans in bulk in container system units so that a consistent standard of export certification is applied if mung beans are exported in bulk. Consistent practices are necessary to provide importing country authorities with confidence that appropriate sampling, inspection and rejection methods are used in relation to mung beans in bulk.

PART 4 - MUNG BEANS INSPECTED FOR PHYTOSANITARY CERTIFICATION

This part defines the procedures for sampling and inspection of mung beans for which phytosanitary certification is required. The purpose of this part is to ensure that consistent practices are applied in relation to mung beans requiring a phytosanitary certificate.

Clause 21 – Mung beans inspected for phytosanitary certification

The purpose of Subclause 21.1 is to require that bagged mung beans, for which a phytosanitary certificate is required, be inspected in accordance with Part 2 of Schedule 6A.

The purpose of Subclause 21.2 is to require that mung beans in bulk, for which a phytosanitary certificate is required, be inspected in accordance with Part 3 of Schedule 6A.

Subclause 21.3 requires that, for the purpose of issuing a phytosanitary certificate for re-export, the same inspection procedures are to be applied as for the issue of a phytosanitary certificate.

Clause 22 – Re-inspection of consignments where shipment delayed

Subclause 22.1 provides that a consignment that has been inspected for phytosanitary certification must be reinspected if after 28 days it has not been exported. This requirement allows authorised officers, who issue the phytosanitary certification, to verify that the condition of the mung beans has not changed. In addition, export permits are only valid for 28 days after they are issued under Part 6 of the General Order, and the export of mung beans as a prescribed good is prohibited under Order 46.1A of the Principal Orders unless an export permit is in force.

Subclause 22.2 makes provision for importing countries to specify periods for which phytosanitary inspections are valid, after which the exporter may request re-inspection and the issuance of another certificate.

Subclause 22.3 sets out the procedures for re-inspecting consignments where shipment has been delayed for the purpose of verifying that the condition of the mung beans has not changed. This subclause also provides that such verification may take place without the discharge of the mung beans, except where the integrity of the consignment has not been maintained.

PART 5 - TREATMENT OR CLEANING OF MUNG BEANS AND THEIR RE-PRESENTATION

This part defines the procedures for the treatment or cleaning of rejected mung beans and their re-presentation. The purpose of this part is to ensure that consistent practices are applied in relation to the treatment or cleaning of rejected mung beans and their re-presentation.

Clause 23 - Treatment of mung beans

The purpose of Subclause 23.1 is to prohibit mung beans rejected for pests from being re-presented for inspection unless they have been treated. Treatment of the rejected mung beans is required to ensure that the conditions for export have been met. This requirement was not previously contained in the Mung Bean Orders, but was set out in the Manual published by AQIS.

Subclauses 23.2 and 23.3 detail the requirements for applying appropriate treatments in relation to pest infestations, particularly they stipulate the requirement to comply with the approved method of use or application of the fumigant/insecticide on the registered label.

The purpose of Subclause 23.4 is to prohibit brushing as a method for cleaning the outside of bags of mung beans rejected for pests. The reason that brushing is prohibited is that brushing alone may not be an effective remedial treatment method for removing all life stages of the pests.

Subclause 23.5 prohibits the application of blending as a treatment for mung beans rejected for pests. Blending is not considered to be an appropriate remedial treatment to remove pests from the mung beans.

Clause 24 – Treatment of rejected mung beans in bulk in a container system unit

The purpose of Subclause 24.1 is to allow mung beans in bulk, loaded into a container system unit, that have been rejected for insect infestation to be treated without discharge of the mung beans. In this situation treatment must be by fumigation.

The purpose of Subclause 24.2 is to facilitate re-inspection of the mung beans to verify that the treatment has been effective so that the mung beans meet the conditions for export.

Clause 25 – Cleaning of mung beans to remove contaminants

The effect of Subclause 25.1 is to prohibit mung beans rejected for contaminants for which a nil tolerance applies from being re-presented for inspection unless they have been cleaned. This provision is consistent with current practice and allows rejected mung beans to be cleaned and re-presented for inspection provided the cleaning renders the mung beans suitable for export.

Subclause 25.2 prohibits brushing as a method for cleaning the outside of bags of mung beans rejected for contaminants for which a nil tolerance applies. This is because brushing alone may not be an effective remedial treatment method due to the nature of the contaminants for which a nil tolerance applies.

Subclause 25.3 prohibits the application of blending as a method of cleaning mung beans rejected for contaminants for which a nil tolerance applies. Blending of mung beans is prohibited in this situation because it is not considered to be an appropriate cleaning method to remove contaminants for which a nil tolerance applies.

Clause 26 – Representation of mung beans for inspection after treatment or cleaning

The purpose of this clause is to facilitate re-inspection of the mung beans following treatment or cleaning of the rejected mung beans.