

**Regulator Performance Framework 2018-19 self-assessment for  
Agriculture**

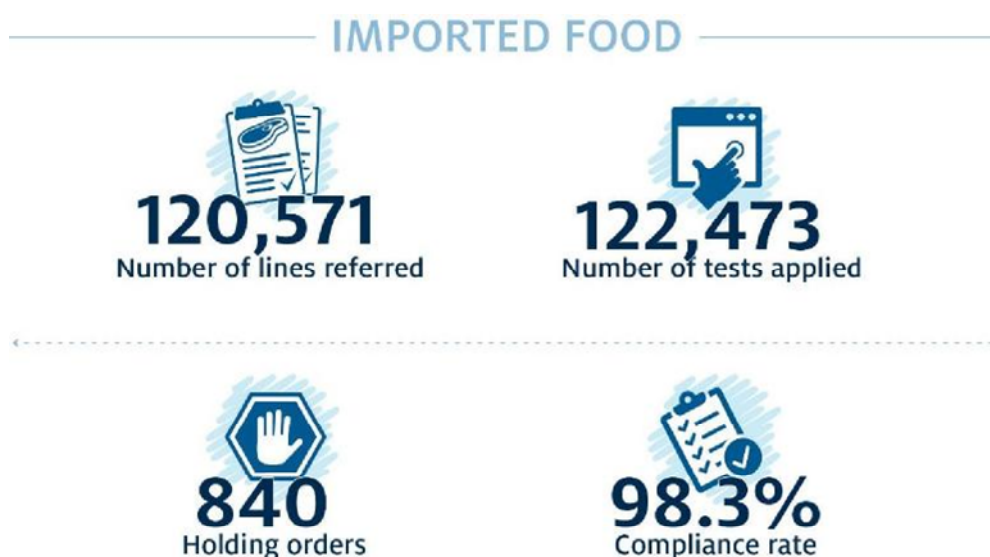
**MONITORING IMPORTED FOOD**

## Monitoring imported food

We are responsible for administering the regulation of food imported into Australia. This activity is largely cost recovered. Necessary increases to services have been introduced for the 2019-20 financial year. The department is planning a comprehensive review of cost recovery arrangements this year and will be seeking feedback from industry at this time.

All imported food must first meet Australia's biosecurity requirements under the *Biosecurity Act 2015*. If it passes biosecurity requirements, it is monitored for safety and compliance with Australian food standards, including the Australia New Zealand Food Standards Code. The [Imported Food Control Act 1992](#) provides for the inspection and control of imported food using the Imported Food Inspection Scheme (IFIS), a risk-based border inspection program. Figure 1 summarises our food import regulatory activities in 2018–19. This regulatory activity has been supported by increasing the proportion of officers now capable of providing dual biosecurity and imported food inspections. A report on our inspection activities is published each year - [Imported food inspection data - Department of Agriculture](#).

**Figure 1: Imported food regulatory activities, 2018–19**



Source: Department of Agriculture

Food Standards Australia New Zealand (FSANZ) provides advice to the department on food that poses a medium or high risk to human health and safety. This food is classified as 'risk food' under the IFIS and is initially referred for inspection and testing at a rate of 100 per cent against a published list of potential hazards (specific to the food), but is decreased if a history of compliance is established.

Food not classified as 'risk' is classified as 'surveillance food' and has a 5 per cent chance of being referred for inspection. At inspection, surveillance foods are visually inspected for obvious signs of contamination or deterioration and the labels of the food are also assessed for compliance against labelling standards. Samples of surveillance food may also be analysed for pesticides and antibiotics, microbiological and chemical contaminants and food additives. Surveillance food found to be non-

compliant must be destroyed or re-exported or in the case of a label fail, the importer can alter the label to be compliant. Further consignments of the food are referred for inspection until a history of compliance is demonstrated. This is achieved by applying a holding order.

Food Import Compliance Agreements (FICAs) offer food importers an alternative regulatory arrangement to inspection and testing of their products under the IFIS by recognising an importer's existing documented food safety management system. This provides these businesses with a streamlined process for importing food, which represents a substantial cost saving. It is optional for food importers to enter into a FICA. Currently, twenty five importers operate under a FICA.

Food may also be imported under a foreign government certification arrangement. The department can enter into a government-to-government certification arrangement with the national competent authority of a country exporting food to Australia, providing confidence that the food has been produced safely. Consignments of imported food accompanied by a recognised foreign government certificate may be inspected and tested at a reduced rate (5 per cent). Such arrangements are in place for certain risk classified seafood from Thailand and Canada and a risk classified cheese from France. Use of a recognised foreign government certificate in the clearance of food imported to Australia is normally voluntary but an Order made by the Minister may mandate a foreign government certificate for a food. Recognised government certification is currently mandatory for beef and beef products, raw milk cheese and human milk and human milk products.

The *Imported Food Control Act 1992* was amended in September 2018 to strengthen the management of imported food safety risks to better protect the health of Australian consumers. The new legislation is designed to:

- increase importer accountability for food safety
- strengthen importer sourcing of safe food
- improve monitoring and management of new and emerging food safety risks
- improve incident response.

The legislative instruments under the *Imported Food Control Act 1992* were also remade due to the sunset provisions in section 50 of the *Legislation Act 2003*. The remade instruments are the Imported Food Control Regulations 2019 and the Imported Food Control Order 2019.

## KPI 1 — We consider the impacts of our regulation

**Objective:** We take account of the operating environment of our regulated entities and stakeholders.

Performance Measures	Targets	Results
<p>Our regulatory practices take into account the impact of regulation on stakeholders and regulated entities.</p>	<p>New and amended regulations are supported by best practice regulatory impact analysis that includes consultation on impacts.</p>	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• A preliminary assessment regulation impact statement is completed for all proposed legislative changes to the imported food legislation the Department administers – the <i>Imported Food Control Act 1992</i>, <i>Imported Food Control Regulations 2019</i> and the <i>Imported Food Control Order 2019</i>. These statements are assessed by the Office of Best Practice Regulation (OBPR) and where the regulatory impacts are deemed significant, we prepare regulations impact statements (RISs) and consult with stakeholders and regulated entities on the impacts of the proposed changes.</li> <li>• In 2018-19, we prepared four preliminary assessments for legislative instruments, which were all assessed by OBPR as not requiring a RIS. These assessment were: <ul style="list-style-type: none"> <li>– Imported Food Control Order (Human Milk and Human Products) Order 2001 – OBPR ID: 24639</li> <li>– Imported Food Control Order 2019 – OBPR ID 24014</li> </ul> </li> <li>• Imported Food Control Regulation 2019 – OBPR ID: 22187</li> </ul>

Performance Measures	Targets	Results
Our regulatory practices take into account the impact of regulation on stakeholders and regulated entities.	We engage with our stakeholders on implementation and compliance approaches.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• We routinely consult stakeholders including state and territory governments, foreign governments, Australian government agencies and regulated entities on a range of regulatory matters, even where a RIS is not required.</li> <li>• We publish reports for public consultation through the department's <i>Have Your Say</i> online platform to support engagement with external stakeholders when significant legislative changes are being proposed. In 2018-19 we released three reports for consultation, one on the remaking of the Imported Food Control Regulations, one on the remaking of the Imported Food Control Order and one on food safety certifications requirements for imported bivalve molluscs.</li> <li>• Information on changes to the Imported Food Inspection Scheme are published on the department's website via Imported Food Notices and notification of these changes is emailed to subscribers.</li> <li>• Consultation with industry representatives occurred through the Imported Food Consultative Committee and the department's Cargo Consultative Committee.</li> <li>• Wider consultation occurred through an industry roundtable event in Sydney in June 2019, which was well attended by food importers, brokers and industry associations.</li> <li>• The department also consulted internationally on changes through the WTO SPS notification process. The following notifications were made in 2018-19: <ul style="list-style-type: none"> <li>– Imported Food Control Regulation 2019 – notification providing an exposure draft of the proposed remake of the Imported Food Control Regulation 1993. Notification ID: <a href="#">G/SPS/N/AUS/466</a></li> <li>– Imported Food Control Order 2019 – notification providing exposure draft of the proposed remake of the Imported Food Control Order 2001. Notification ID: <a href="#">G/SPS/N/AUS/467</a></li> <li>– Bivalve molluscs and bivalve mollusc products. Notification ID: <a href="#">G/SPS/N/AUS/462</a></li> </ul> </li> </ul>

Performance Measures	Targets	Results
<p>Our regulatory practices take into account the impact of regulation on stakeholders and regulated entities.</p>	<p>We consider the operating environment impacting the Department and regulated entities.</p>	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• Our engagement with stakeholders and feedback provided enables us to consider impacts on our regulated entities and to put in place measures to minimise these impacts. For example, as result of our industry roundtable events, we have developed guidance materials for industry and are making changes to improve the structure and information on our website.</li> </ul>

## KPI 2 — Our communication with regulated entities is clear, concise and targeted and effective

**Objective:** Our communication with regulated entities and stakeholders is effective and substantive.

Performance Measures	Targets	Results
Our guidance and information is tailored to the needs of regulated entities and accessible.	Risk-based frameworks, strategies and <a href="#">service standards</a> are available on our website and the information is regularly reviewed to ensure currency.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>The department publishes information on the risk based Imported Food Inspection Scheme on the department's website. This scheme is used to verify that food imports are safe and compliant with Australia's food standards.</li> <li>We are currently reviewing the website to ensure relevant content is available and can be easily understood by stakeholders.</li> </ul> <p>We also produce printed materials to communicate important information to food importers. In 2018-19, a brochure outlining requirements on importing food and postcards on allergen labelling and Food Import Compliance Agreements were printed.</p>
We engage with regulated entities on potential changes to regulatory policies, practices or services.	Advice notices and guidance material are up to date, accurate, accessible and in plain English.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>The department publishes industry notices specific to activities under the Imported Food Control Act as Imported Food Notices. These are up to date, accurate and accessible. The department's email notification process is used to advise registered stakeholders when these notices are published.</li> <li>In 2018-19 we published 16 Imported Food Notices.</li> </ul>

Performance Measures	Targets	Results
<p>We engage with regulated entities on potential changes to regulatory policies, practices or services.</p>	<p>We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions.</p>	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• The department holds two meetings of the Imported Food Consultative Committee each year. This committee is the primary industry consultative committee on issues associated with the administration of the <i>Imported Food Control Act 1992</i>.</li> <li>• To engage directly with businesses importing food, the department holds at least one industry roundtable each year. This event is promoted to businesses importing food, brokers and industry associations. This year the roundtable was held in Sydney in June. Attendees were provided updates on changes to legislation and initiatives to improve communication with industry. Attendees were also encouraged to raise concerns.</li> </ul>



### KPI 3 — Actions undertaken by regulators are proportionate to the regulatory risk being managed

**Objective:** We apply a risk-based, proportionate approach to compliance, engagement and enforcement activities.

Performance Measures	Targets	Results
Our regulatory frameworks are supported by best practice compliance strategies that are risk based.	We use information, data, analysis and intelligence-based approaches to determine risk, and consider the circumstances of regulated entities.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>The Imported Food Inspection Scheme is a risk based inspection scheme informed by the science based food safety risk assessments conducted by Food Standards Australia New Zealand (FSANZ).</li> <li>Foods assessed by FSANZ as posing a medium to high risk to public health are classified as risk in the <i>Imported Food Control Order 2019</i>. Risk food is initially referred for border inspection and testing at a rate of 100 per cent against a published list of potential hazards (specific to the food), but is decreased if a history of compliance is established.</li> <li>Foods not classified as 'risk' are classified as 'surveillance food'. Each consignment of surveillance food has a 5 per cent chance of being referred for inspection. If the food fails the inspection, future consignments are referred at a rate of 100 per cent until compliance is established.</li> </ul>
Our regulatory frameworks are supported by best practice compliance strategies that are risk based.	Our regulators employ a range of compliance and enforcement tools.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>We use compliance and enforcement tools tailored to the identified risks and behaviour of our regulated entities. These include inspections, audits, fit and proper person tests, warrants and investigations. Enforcement tools such as compliance audits, infringement notices or court action are only employed when a cooperative approach has been unsuccessful.</li> <li>We adopt a regulatory approach that takes into account compliance history and overall risk of the activities. This is set out in our regulatory compliance plans and operating procedures.</li> </ul>

Performance Measures	Targets	Results
Our regulatory frameworks are supported by best practice compliance strategies that are risk based.	Our staff are provided with appropriate training and guidance materials to support their compliance roles.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• Staff must complete training to be authorised officers under the Imported Food Control Act. This training includes face to face training and demonstration of competencies. Once appointed, an authorised officers receives on the job training including a three month buddy system with an experienced officer.</li> <li>• Detailed work instructions are available to all authorised officers to ensure they can carry out their duties under the Imported Food Inspection Scheme. These work instructions are reviewed periodically to ensure accuracy and relevance.</li> </ul>
Eligible regulated entities receive tailored approaches based on an understanding of their operating environment and risk profile.	We apply a graduated approach to compliance activities that provides for earned autonomy, within legislative parameters.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• The Imported Food Inspection Scheme is a risk-based border inspection scheme. Risk foods are initially referred for border inspection at a rate of 100% but this rate is reduced following demonstration of compliance. After five consecutive passes, the rate is reduced to 25% and following a further twenty consecutive passed, reduced to 5%. This system effectively recognises compliant importers.</li> <li>• Food importing businesses that have demonstrated their capability and competence to import safe and compliant food may also apply to the department to enter into a Food Import Compliance Agreement (FICA). Where approved, the department recognises this capability and competence and no longer subjects the food business' consignments to border inspection under the Imported Food Inspection Scheme. The department conducts audits of the food business to verify their ongoing capacity and compliance with importing safe and compliant food. The department currently has twenty five food businesses operating under a FICA.</li> </ul>

Performance Measures	Targets	Results
<p>Eligible regulated entities receive tailored approaches based on an understanding of their operating environment and risk profile.</p>	<p>Our compliance responses are coordinated and undertaken with appropriate authority and accountability.</p>	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• Biosecurity Operations work collaboratively from assessment to inspection and release of imported food. Only Biosecurity Officers who have completed specific training to become an accredited authorised officer are able to conduct compliance activities for imported food.</li> </ul>

## KPI 4 — Compliance and monitoring approaches are streamlined and coordinated

**Objective:** We base our monitoring and inspection approaches on assessed risk and where possible, we take into account the operating context.

Performance Measures	Targets	Results
There are demonstrated benefits to regulated entities from our efforts to streamline and coordinate our regulatory activities.	We regularly review our business processes with a view to streamlining where possible.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>The department has implemented an alternate process for label visual inspection of imported food in remote locations. Using remote technology, an officer authorised under the <i>Imported Food Control Act 1992</i> can undertake elements of a label/visual inspections in remote locations, whilst under the direction of a fully accredited imported food authorised officer. This diminishes the inefficiencies associated with highly sought after imported food accredited officers having to travel to remote locations.</li> </ul>
There are demonstrated benefits to regulated entities from our efforts to streamline and coordinate our regulatory activities.	Our published service standards are met or exceeded.	<p><b>Rating: Sound</b></p> <ul style="list-style-type: none"> <li>Our client service standards outline our service commitments and established benchmarks for delivering biosecurity related services. The standards also set out what is expected from regulated entities to assist us to meet these.</li> </ul>

**Objective:** We share information and coordinate our compliance activities within the department and with other regulators as appropriate, to minimise duplication and increase efficiency.

Performance Measures	Targets	Results
<p>Business processes and services are improved through the better use of modern technology, and agreed service standards.</p>	<p>We analyse complaints information and other feedback from our regulated entities to understand trends and make improvements where possible.</p>	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• We collect and analyse information received through enquiries from regulated entities to identify trends. This aids the section to improve regulatory capability, implement regulatory efficiencies and improve stakeholder engagement.</li> </ul>

Performance Measures	Targets	Results
<p>Business processes and services are improved through the better use of modern technology, and agreed service standards.</p>	<p>We collaborate and coordinate with stakeholders, other relevant regulators to reduce compliance costs and improve efficiency of our regulatory frameworks.</p>	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• We engage with relevant domestic and international regulators to address relevant impacts that are unnecessary and/or disproportionate. We inform ourselves regarding adverse impacts on stakeholders and regulated entities through regular stakeholder consultation. For example, the department regularly consults with the department’s Imported Food Consultative Committee and with regulators through the Implementation Sub-committee for Food Regulation. We also sit on working groups that report to this body to support consistent food regulation.</li> <li>• The department has regular meetings with Food Standards Australia New Zealand to discuss application of food standards to imported food and whether food safety risk assessment advice requires review to address food hazards.</li> <li>• We engage overseas government authorities on the regulation of food for food safety and compliance with Australian food standards. Where satisfactory equivalence with Australia’s food regulatory system is established, reduced border interventions for food imported from that country may be implemented given these additional assurances. Examples include certification arrangements with the Thai Department of Fisheries and an arrangement with the US Food and Drug Administration.</li> </ul>

## KPI 5 — We are transparent and accountable in the way we administer our regulation

**Objective:** We make decisions in a manner that is timely, consistent and supports predictable outcomes.

Performance Measures	Targets	Results
When we make decisions we provide reasons and our advice is timely and consistent.	Our approach to regulation is clearly defined in publicly available regulatory statements and compliance plans.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• Our regulatory approach is detailed in relevant legislation, the Biosecurity Compliance Plan and further information on the Australian food regulation system are available on the department's website.</li> <li>• The department is currently developing a Regulatory Practice Framework, which will support a strengthened regulatory posture by outlining the department's approach to its regulatory responsibilities and providing principles to help guide regulatory staff in performing their duties.</li> </ul>
When we make decisions we provide reasons and our advice is timely and consistent.	Our advice to regulated entities explains the reasons for decisions and provides information about avenues for review or complaint (as provided for in relevant legislation).	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>• Regulated entities are informed in writing of outcomes of food inspections. Where an inspection identifies non-compliant or unsafe food, the entity is provided with the reasons for the department's decision.</li> <li>• The department has published information on how industry participants may seek a review of an initial decision where they are directly affected by the regulatory decision. This information is available on the department's website.</li> </ul>

**Objective:** Reports on regulator performance are published in required timeframes.

Performance Measures	Targets	Results
We publish an annual self-assessment of our performance by the required timeframes.	Our regulators publish performance information specific to their regulatory frameworks.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>We report on imported food management. In addition, our Regulator Performance Framework report provides a high level assessment of our performance as a regulator. The department's annual report also provide significant performance information on imported food activities.</li> </ul>

**Objective:** Our assurance and integrity processes will ensure our compliance approaches are targeted to need.

Performance Measures	Targets	Results
Our regulatory actions are subject to internal assurance processes.	We verify the integrity and reliability of our compliance activities.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>We conduct internal verification activities to provide assurance that we are appropriately managing biosecurity risk and ensuring compliance with Australian food standards. The outcomes of these verifications are used to inform the review and streamlining of our regulatory processes.</li> </ul>



## KPI 6 — Regulators actively contribute to the continuous improvement of regulatory frameworks

**Objective:** We establish cooperative and collaborative relationships with regulated entities and stakeholders to promote trust and improve the efficiency and effectiveness of our regulatory frameworks.

Performance Measures	Targets	Results
We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks.	We routinely consult with stakeholders on administration of regulation, and seek their advice on significant changes and explain our decisions (this target also applies for KPIs 2&5).	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>We provide opportunity for comment on changes to our legislation and the Imported Food Inspection Scheme by releasing reports for public consultation via the department's <i>Have Your Say</i> online platform. We take feedback received into account when deciding appropriate regulatory changes.</li> <li>We also actively seek feedback from food importers, brokers and industry associations by conducting industry roundtable sessions annually. At these sessions, participants are encouraged to communicate any concerns or issues they have with importing food into Australia. As a result of this feedback, we have developed guidance materials for industry and are making changes to improve the structure and information on our website.</li> </ul>
We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks.	We have a program of review for our regulatory frameworks and operational arrangements are fit for purpose and appropriate.	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>The <i>Imported Food Control Act 1992</i> was amended in September 2018 to strengthen the management of imported food safety risks to better protect the health of Australian consumers. The legislative instruments under the Imported Food Control Act were remade due to the sunset provisions in section 50 of the <i>Legislation Act 2003</i>. The remade instruments are the <i>Imported Food Control Regulations 2019</i> and the <i>Imported Food Control Order 2019</i>.</li> </ul>

Performance Measures	Targets	Results
<p>We take into account feedback from our regulated entities and performance information to improve operations of our regulatory frameworks.</p>	<p>We review our regulatory performance and identify areas for improvement in our systems and processes</p>	<p><b>Rating: Managed</b></p> <ul style="list-style-type: none"> <li>We are continually reviewing our systems to identify areas for improvement, in consultation with our industry and government stakeholders, as discussed in other parts of this report.</li> </ul>

## CASE STUDY – Imported food roundtable sessions

Since 2017, Imported Food has held four industry roundtable sessions, two in Sydney, one in Melbourne and one in Brisbane. The aim of these sessions is to increase the department's engagement with businesses importing food, particularly those businesses not represented by industry associations. These roundtables have been well attended by food importers, brokers, industry associations and testing laboratories.

At the roundtable sessions, industry has provided feedback on their issues and concerns with importing food in compliance with Australian foods standards. The department has also provided updates on changes being proposed to imported food legislation. Other topics discussed have been:

- supply chain assurance
- challenges of traceability
- food fraud
- the operations of the Imported Food Inspection Scheme
- the benefits of a food importers being on a Food Import Compliance Agreement

The department has received valuable feedback from attendees which has shaped our work priorities. For example, we are progressing work on reforming the information we have on our website to make it easier for readers to navigate information and to explain requirements in simpler language.

Feedback on these sessions has been very positive with the majority of attendees rating the sessions as very useful. One attendee stated the following:

*“Very informative. Great to network and hear everyone's stories and the commonalities amongst industry. Having DAWR employees at each table was very helpful – information, advice and follow up.”*

Due to the ongoing success of these roundtable sessions, the department will be continuing to hold them at least once per year.