



Management of non-compliance – ESCAS for feeder and slaughter livestock

Purpose of this document

This document details reference information to support Department of Agriculture, Fisheries and Forestry (DAFF) staff on the management of non-compliance in Exporter Supply Chain Assurance System (ESCAS) for the export of feeder and slaughter livestock.

Note: Each incident is considered by DAFF on a case-by-case basis.

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Background

DAFF may receive and consider reports of adverse animal welfare outcomes and loss of traceability and control aspects from various sources and in various formats, including:

- independent audit reports
- exporters
- reports from the public and animal welfare organisations and peak industry bodies
- advice from governments in importing countries.

In general terms, DAFF will assess available information and evidence on a case-by-case basis and classify the findings into:

- no confirmed non-compliance
- minor non-compliance
- major non-compliance
- critical non-compliance.

The action that DAFF may take will be dependent on the classification of the findings and the specifics of the incident.

This document provides some guidance, in terms of non-compliances, for each key component of the regulatory framework, traceability, animal welfare, control and independent auditing.

This document also includes information about the classification of findings and the measures that could be applied by DAFF in response to a non-compliance.

Note: There are differences in the ESCAS framework for sheep/goats and cattle/buffalo. The main differences relate to the reporting requirements and the systems of traceability. The section on traceability is accordingly divided into sections specific to these species.

Information and activities

Traceability - Cattle and buffalo

Cattle and buffalo must have unique individual identification and be tracked throughout the approved ESCAS up until the point of slaughter. It is important to differentiate animals in the approved ESCAS that do not have functioning identification consistent with the original tag list (loss of traceability) from those that did not remain in the approved ESCAS (leakage).

Note: [Figure 1 Possible Traceability Outcomes for exported Cattle and Buffalo](#) is a diagrammatic representation of the possible traceability outcomes for exported cattle. The possible outcomes are discussed further in the section: [Possible traceability adverse outcomes](#).

Through conditions applied in accordance with section 6-37(5) of the Export Control (Animals) Rules 2021 (the Animals Rules), an exporter must be able to account for all livestock exported into their approved ESCAS and supply independent performance audit reports which evaluate the effectiveness of the traceability system (as well as the animal welfare and control aspects) for the whole of the approved ESCAS.

Audit reports must be provided to the department within one month of being completed and no later than 10 working days after the end of the specified audit period or within such further period as the department allows.

The frequency of these audits is based on risk and performance. For facilities deemed to be:

- low risk: on-site audits must be conducted once during the audit period (1 January – 31 December)
- medium risk: on-site audits must be conducted during each audit period (Period 1: 1 January – 30 June, Period 2: 1 July – 31 December)
- high risk: on-site audits must be conducted during each audit period (Period 1: 1 January – 31 March, Period 2: 1 April – 30 June, Period 3: 1 July – 30 September, Period 4: 1 October – 31 December).

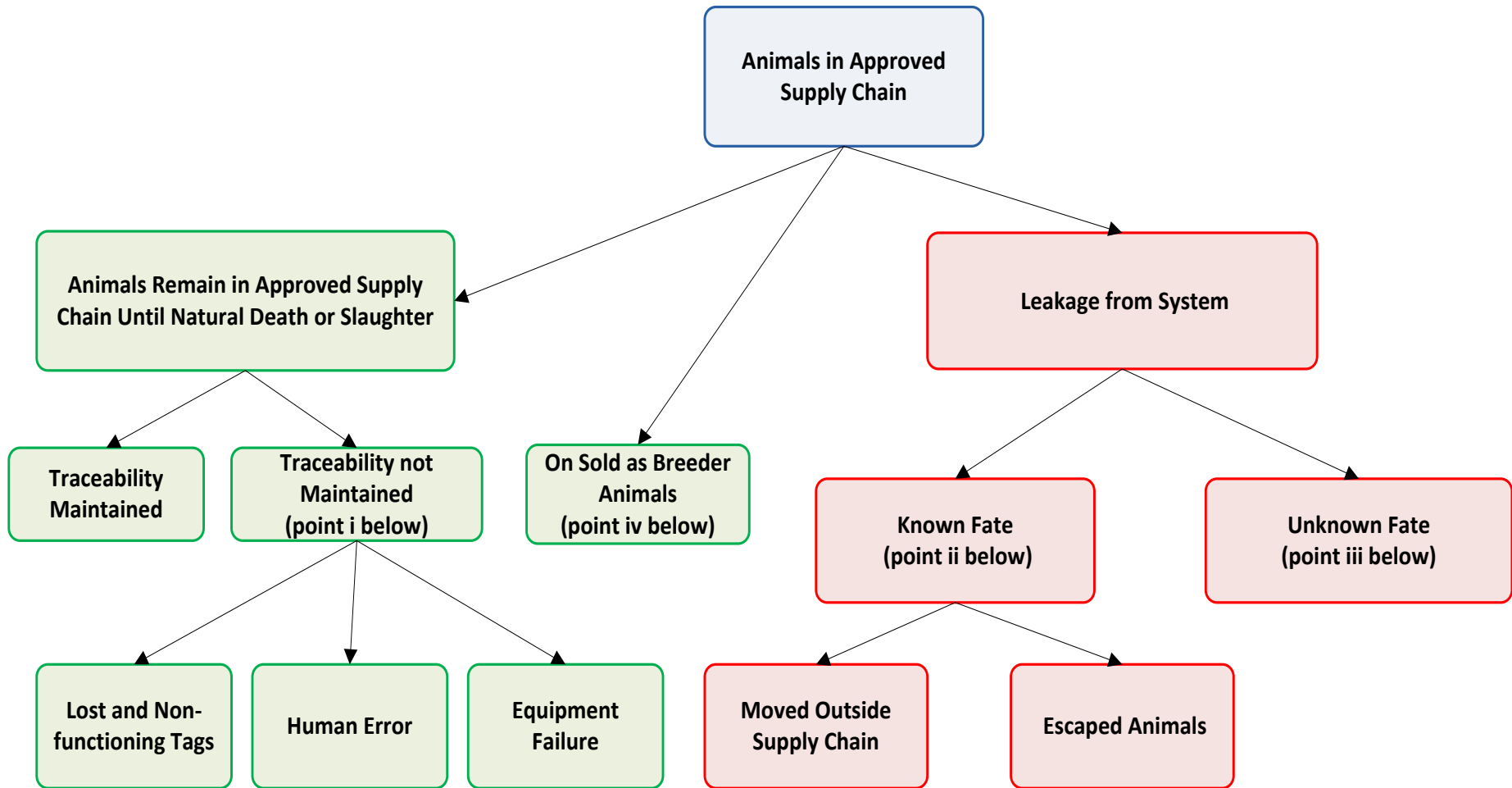


Figure 1 - Possible Traceability Outcomes for exported Cattle and Buffalo

Possible traceability adverse outcomes

Cattle/buffalo only

- i. Animals remain in the approved ESCAS but cannot be traced via the original identification methodology to the original tag list:
 - This will occur if ear tags fall out, if RFID tags or reading equipment stop functioning, or if there is transcription error in recording the tag. However, the exporter may be able to reconcile the individual animal's identification back to the specific consignment by some alternative methodology (for example, back up visual tags, consignment segregation). These animals should not be categorised as 'leakage' because the animals remain identifiable to the specific consignment and remained within the approved ESCAS.
 - Existing information on the performance of NLIS RFID tags generally indicates that it may be reasonable to expect that a proportion of animals may not be able to be directly identifiable by scanning against the original tag list. These animals however are still identifiable in the system.
- ii. Leakage with known fate:
 - Includes any animals that did not die (natural or slaughter) within the approved ESCAS (and did not leave the approved ESCAS for breeding purposes) where the exporter has information on the fate of the animal. This may include animals escaping from approved facilities (for example, due to natural disaster); or sending the animals to feedlot(s) and abattoir(s) outside the approved ESCAS. There is no acceptable level of leakage for animals that knowingly leave the ESCAS as this is a clear breach of the regulatory framework objectives which include requirements for exporter control throughout the approved ESCAS to ensure animals remain within the approved ESCAS.
- iii. Leakage with unknown fate:
 - This will include any animal that is recorded as having been exported but cannot be accounted for at all. There is no acceptable level of leakage for animals that cannot be accounted for (with no explanation) as this is a clear breach of the regulatory framework objectives which include requirements for maintenance of identification throughout the approved ESCAS and the replacement of lost or non-functioning tags.
 - For points ii and iii, while there is no acceptable level of leakage, this information will not be used as a sole basis for decision making. All available information, including past exporter performance and explanations will be considered when deciding to take regulatory action.
- iv. Animals that are sold as breeders after arrival:
 - It is possible that some animals may be sold as breeders after arrival into the importing country. The animals which are sold as breeders will depart from the approved ESCAS facilities and records of their departure and destination must be maintained. An exporter must ensure appropriate records are available to the independent auditor to verify this movement.

Traceability – Sheep and goats

As the regulatory framework does not require sheep and goats to have unique individual identification, exporters must trace the exported sheep and goats up until the point of slaughter using a mob-based accounting system.

The exporter's supply chain assurance system must include adequate records that account for:

- the numbers loaded onto and unloaded from the vessel
- the number of animals that enter and exit each facility within the approved ESCAS
- the number of non-slaughter mortalities within the approved ESCAS
- the number of animals slaughtered within the approved ESCAS
- the number of animals on-sold as breeders (the ESCAS regulatory framework does not apply to breeder animals).

The auditor will check the approved ESCAS traceability / accounting records to identify whether the system can account for the sheep / goats in the approved ESCAS. DAFF requires a relevant statement in the independent performance audit report attesting to whether the accounting system and available records:

- provide evidence accounting for the sheep / goats throughout the approved ESCAS during the audit period, including consideration of count discrepancies, non-slaughter mortalities and slaughter of animals
- enable reconciliation of the physical location of sheep / goats throughout the approved ESCAS
- provide sufficient detail (company name, location address etc.) to demonstrate that sheep / goats movement has occurred within the approved ESCAS.

Note: The DAFF assessment of traceability compliance is undertaken based on statements provided by the independent auditor.

As a condition of their ESCAS, applied in accordance with section 6-37(5) of the Animals Rules, exporters must supply independent performance audit reports which evaluate the effectiveness of the traceability system (as well as the animal welfare and control aspects) for the whole of the approved ESCAS. These audit reports must be provided to the department within one month of being completed and no later than 10 working days after the end of the specified audit period or within such further period as the department allows.

The frequency of these audits is based on risk and performance. For facilities deemed to be:

- low risk: on-site audits must be conducted once during the audit period (1 January – 31 December)
- medium risk: on-site audits must be conducted during each audit period (Period 1: 1 January – 30 June, Period 2: 1 July – 31 December)
- high risk: on-site audits must be conducted during each audit period (Period 1: 1 January – 31 March, Period 2: 1 April – 30 June, Period 3: 1 July – 30 September, Period 4: 1 October – 31 December).

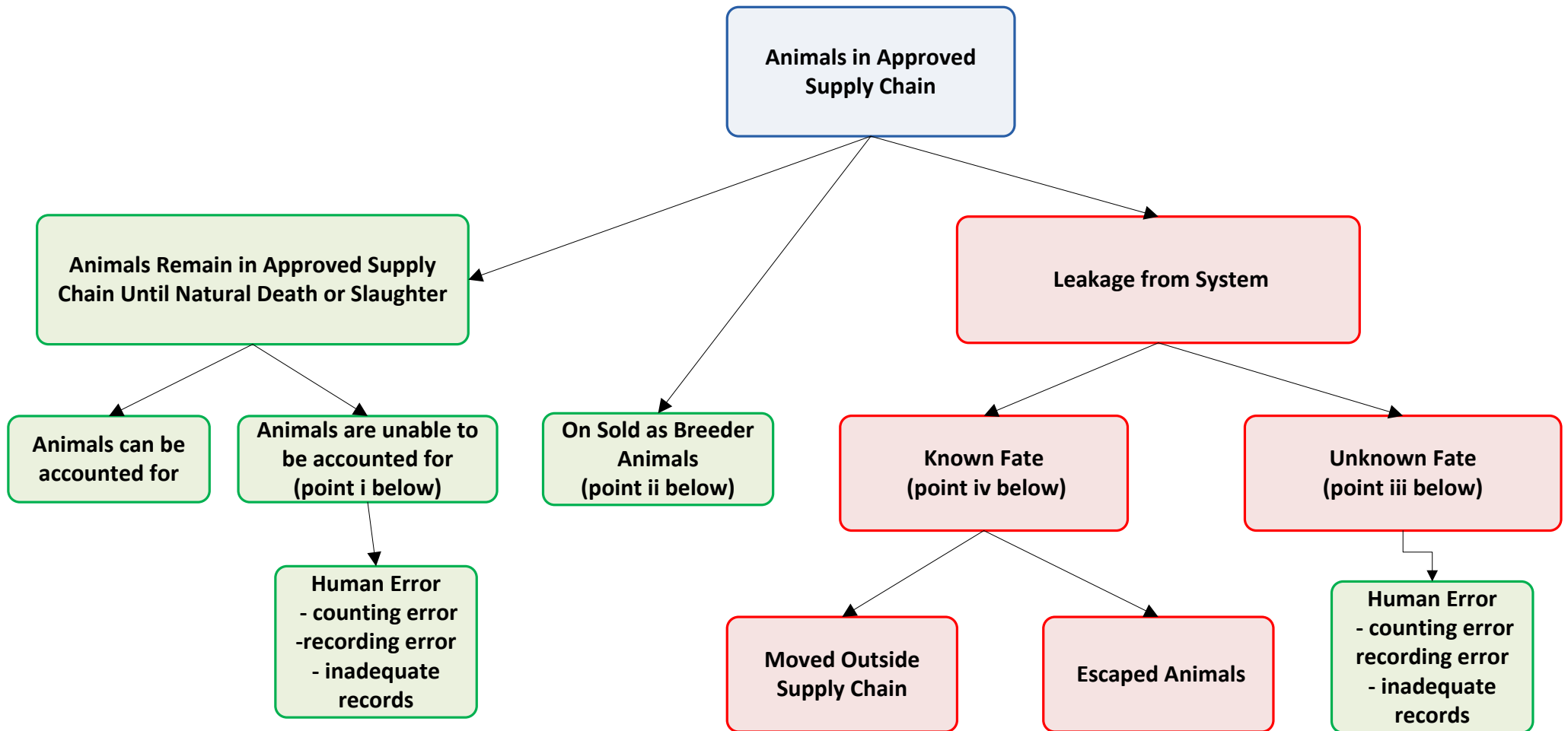


Figure 2 Possible Traceability outcomes for exported sheep and goats

Possible traceability adverse outcomes

Sheep/goat specific traceability issues

i. Accounting discrepancy

The independent auditor is not satisfied that the available records, including records for slaughter, non-slaughter mortalities and on-selling of breeders, adequately account for the sheep/goats that entered the approved ESCAS.

ii. Animals that are sold as breeders after arrival

It is possible that some animals may be sold as breeders after arrival into the importing country. The animals which are sold as breeders will depart from the approved ESCAS facilities and records of their departure and alternative location must be maintained. The independent auditor must consider the records as part of the assessment of the accounting and traceability system.

iii. Leakage with known fate

Includes any animals that did not die (natural or slaughter) within the approved ESCAS (and did not leave the approved ESCAS for breeding purposes) where the exporter has information on the fate of the animal. This may include animals escaping from approved facilities (for example, due to natural disaster); or sending the animals to feedlot(s) and abattoir(s) outside the approved ESCAS. There is no acceptable level of leakage for animals that knowingly leave the ESCAS as this is a clear breach of the regulatory framework objectives which include requirements for exporter control throughout the approved ESCAS to ensure animals remain within the approved ESCAS.

iv. Leakage with unknown fate

This will include any animal that is recorded as having been exported but cannot be accounted for at all. There is no acceptable level of leakage for animals that cannot be accounted for (with no explanation) as this is a clear breach of the regulatory framework objectives which include requirements for maintenance of identification throughout the approved ESCAS including replacement of lost or non-functioning tags.

For points iii and iv, while there is no acceptable level of leakage, this information will not be used as a sole basis for decision making. All available information, including past exporter performance and explanations will be considered when deciding to take regulatory action.

Animal welfare

Depending on the format and type of information received in relation to adverse animal welfare incidents or outcomes, assessment and advice from the DAFF Animal Welfare Branch and the Chief Veterinary Officer may be required. The assessment will consider whether the process was consistent with the World Organisation for Animal Health (WOAH) animal welfare standards and whether there are indications of systemic issues within the approved ESCAS.

Control

DAFF may receive and consider reports of non-compliance within the control aspects of an exporter's ESCAS. Reports may be received from various sources and in various formats, including independent audit reports, exporters, from the public or animal welfare organisations, peak industry bodies, and advice from governments in importing countries. Non-compliance in traceability or animal welfare may also imply there is a reduction or loss of control by the exporter and that remedial action may be necessary in addition to rectifying the specific non-compliance.

Classification of findings

DAFF will consider available information and evidence and categorise the investigation outcome as 'no confirmed non-compliance', 'minor non-compliance', 'major non-compliance' or 'critical non-compliance' in accordance with the definitions in Table 1 Classification of outcome below.

When categorising a non-compliance, DAFF will consider the associated information and evidence in the context of the ESCAS capacity to deliver ongoing, positive animal welfare outcomes. Non-compliances representing confirmed or potential systemic failures in an ESCAS are likely to be categorised as major or critical non-compliances. In this context, systemic failures are flaws in the design and/or operation of processes and procedures underpinning an ESCAS that have the potential to result in repeated and/or persistent animal welfare, control or traceability non-compliances over time.

Category	Definition of outcome
No confirmed non-compliance	<ul style="list-style-type: none"> No substantiated information confirming failure to comply with the approved ESCAS or failure to meet the control, traceability or animal welfare outcomes, or independent audit requirements.
Minor	<ul style="list-style-type: none"> A failure to comply with the approved ESCAS which is not likely the result of systemic failure or reduced ability to meet the control, traceability or animal welfare outcomes. Potential to affect control, traceability or animal welfare outcomes.
Major	<ul style="list-style-type: none"> A failure to comply with the approved ESCAS which is likely a result of systemic failure or materially reduced ability to meet the control, traceability or animal welfare outcomes. A number of minor non-compliances which are likely a result of systemic failure can be considered to be major non-compliance. Likely to affect control, traceability or animal welfare outcomes.
Critical	<ul style="list-style-type: none"> A failure to comply with the approved ESCAS which has led to the control, traceability or animal welfare outcomes not being met. Confirmed to have affected control, traceability or animal welfare outcomes.

Table 1 Classification of outcome

Consultation process

Internal consultation process

DAFF will follow a structured consultation process to support decision making in relation to appropriate action to take in response to each alleged or confirmed non-compliance identified in relation to the performance of an ESCAS. Responsibilities in the consultation process are shown in Table 2 ESCAS consultation responsibilities below.

Area	Responsibility
DAFF – Live Animal Export Branch	Primary responsibility for receiving, recording and assessing NOIs, proposed ESCASs, variations to existing ESCASs, independent performance audit reports and making recommendations to the relevant delegate on the appropriate regulatory action to take.
Assistant Secretary, Live Animal Export Branch	As required, discuss non-compliances with the LAE Branch and provide guidance on the action to be taken. As Delegate of the Secretary (the Act), make decisions in accordance with relevant section/s of the <i>Export Control Act 2020</i> or the Animals Rules regarding livestock export licences.
Chief Veterinary Officer / DAFF Animal Welfare Branch	As required, attend discussions with the LAE Branch and provide written advice to inform the classification of animal welfare non-compliances.

Table 2 ESCAS consultation responsibilities

External consultation process

DAFF will engage the exporter if alleged non-compliances within their approved ESCAS are reported. DAFF will advise the exporter of the plan for consideration of the findings, provide an opportunity for the exporter to submit additional information and may direct the exporter to produce further information or documents to support an investigation of the non-compliance.

The actions that an exporter may be required to take will depend on the nature and severity of the findings and could include an investigation of the incident and reporting to DAFF.

Compliance measures

Examples of minor, major and critical non-compliances are provided in [Appendix A Examples of non-compliances](#).

Note: This list of examples is not exhaustive and evidence of alleged or confirmed non-compliances will be considered on a case-by-case basis.

The range of actions available to DAFF have been included in Table 3 Example of non-compliances - possible DAFF actions and legislative mechanisms.

A minor, major or critical non-compliance may necessitate corrective actions by the exporter and approved ESCAS entities. For example, if there is a major or critical animal welfare finding at an abattoir, DAFF may ask the exporter for an explanation, refuse the approval of further NOIs to export and issue a show cause notice to the exporter.

Compliance measures may be applied until sufficient information is provided, with verification by an independent auditor, to demonstrate that the non-compliance has been rectified and that the required control, traceability and animal welfare outcomes can be achieved.

In addition, and depending on the [severity](#) and nature of the non-compliance, if there is a major or critical non-compliance, DAFF may consider refusing the approval of further exports to approved ESCAS's that include the problematic facilities or to problematic approved ESCAS's for the specific exporter and/or other licensed exporters.

As a consequence of mob-based identification for sheep and goats, compliance measures may apply to multiple exporters supplying entities common to their approved ESCAS. This is in line with the Industry Government Working Group (IGWG) report that notes compliance measures will be applied across exporters that share a supply chain given the lack of an individual animal identification system that allows for the tracing of animals back to a specific consignment and exporter.

Enforcement options under the Export Control Act 2020 and the Export Control (Animals) Rules 2021

The following outlines examples of possible actions that the department may take in response to non-compliances in accordance with the Export Control Act 2020 (Act) and the Export Control Rules 2021.

Non-compliance	Possible DAFF actions	Legislative mechanism
<ul style="list-style-type: none"> • Providing false and misleading information • Falsely representing compliance with conditions • Exporting in contravention of conditions or restriction under the <i>Export Control Act 2020</i> (the Act) or <i>Export Control (Animals) Rules 2021</i> (the Animals Rules) • Exporting in contravention of a condition of an export licence or export permit • Failure to provide the Secretary or delegate with information requested under section 285 of the Act. 	<p>Criminal sanctions</p>	<ul style="list-style-type: none"> • Criminal Code, Sch s 136.1 • Sections 217, 227, 285, 367, 368 and 369 of the Act.
<ul style="list-style-type: none"> • Exporting in contravention of conditions or restrictions under the Act and the Animals Rules • Exporting in contravention of a condition of an export licence under the Act or the Animals Rules • Critical non-compliance for traceability, control, animal welfare auditing or reporting • Repeated or multiple major non-compliance for traceability, control, animal welfare auditing or reporting. 	<p>Under the Act:</p> <ul style="list-style-type: none"> • The secretary may give directions to the holder of an export licence • Direct the exporter to produce information or documents to support investigation of the non-compliance(s). <p>Under the Act and the Animals Rules, the department may take the following actions for these instances of non-compliance:</p> <ul style="list-style-type: none"> • A notice of show cause can be issued when: varying a licence, suspending a licence or revoking a licence • Direct the exporter to produce information or documents to support investigation of the non-compliance(s) • A ESCAS can be varied or revoked • Refuse to approve future NOIs to export, any proposed ESCAS arrangements or proposed ESCAS arrangements 	<ul style="list-style-type: none"> • Sections 205-209, 201, 202, 212, 214, 222 and 285 of the Act • Sections 6-37, 6-39, 6-40, 6-42 and 8-5 of the Animals Rules.

Non-compliance	Possible DAFF actions	Legislative mechanism
	<p>which include particular entities implicated in the critical, or repeated or multiple major non-compliances.</p>	
<ul style="list-style-type: none"> • Exporting in contravention of a condition of an export license under the Act and the Animals Rules. • Failure to provide the Secretary or the delegate with information requested under section 285 of the Act. • Secretary or delegate are not satisfied that the consignment of livestock will be the subject of transport, handling, slaughter and related operations which are in accordance with relevant WOAHA recommendation/s. • Any non-compliance for animal welfare traceability, control, auditing or reporting. • Critical or major non-compliance for traceability, control, animal welfare auditing or reporting. • Repeated or multiple minor non-compliance for traceability, control, animal welfare auditing or reporting. 	<p>Under the Act:</p> <ul style="list-style-type: none"> • The secretary may give directions to the holder of an export licence • Direct the exporter to produce information or documents to support investigation of the non-compliance/s. <p>Under the Animals Rules the Secretary may:</p> <ul style="list-style-type: none"> • Vary or revoke an approved ESCAS • Refuse to approve future NOI or any proposed ESCAS arrangements • Refuse to approve proposed ESCAS arrangements which include entities implicated in the critical or major, or repeated or multiple minor non-compliances. 	<ul style="list-style-type: none"> • Sections 222 and 285 of the Act • Sections 6-37, 6-39, 6-40 and 6-42 of the Animals Rules.
<ul style="list-style-type: none"> • Any non-compliance for traceability, control, animal welfare, auditing or reporting • Insufficient information provided by an exporter in an ESCAS application for the Secretary or his delegate to be satisfied that the consignment of the livestock will be subject to the transport, handling, slaughter and related operations which are in accordance with relevant WOAHA recommendations • Insufficient information provided by an exporter during an application for an NOI to export. 	<p>Seek additional information</p>	<ul style="list-style-type: none"> • Section 285 of the Act • Sections 6-37, 8-5 of the Animals Rules.

Table 3 Example of non-compliances - possible DAFF actions and legislative mechanisms

Appendix A: Examples of non-compliances

Examples of minor non-compliance

Control and traceability – cattle and buffalo

- Minor inaccuracies in documents for trucking to feedlot or abattoir
- Movement of animals from vessel/aircraft, feedlot and/or abattoir to any place not included in the approved ESCAS with no evidence provided that outcomes for animal welfare were met
- Minor inaccuracies in record of animal identification check on arrival at or induction into feedlot
- Minor inaccuracies in record of reconciliation of animals that arrived at feedlot against animals expected to arrive at feedlot
- Minor inaccuracies in record of management of animal identification in feedlot
- Minor inaccuracies in record of feedlot mortality
- Minor breakdown in segregation between groups of animals in feedlot
- Minor inaccuracies in record of animal identification check on departure from feedlot
- Minor inaccuracies in record of animal identification check on arrival to abattoir
- Minor breakdown in segregation between groups of animals in abattoir
- Minor inaccuracies in record of management of animal identification in abattoir
- Minor inaccuracies in records when animals onsold as breeders.

Control and traceability – sheep and goats

- Minor discrepancy in the records that account for the sheep and goats that entered the approved ESCAS with the records that account for slaughter, non-slaughter mortalities and onselling of breeders.

Animal welfare

Minor non-compliance with, including but not limited to:

- minor non-compliance in animal handling during transport or at the abattoir or feedlot
- facilities with inadequate infrastructure.

Auditing and reporting

- Exporter, feedlot or abattoir documentation requested by independent auditors not provided in the expected timeframe but within 5 days of expected timeframe.
- End of processing report or performance audit report for the entire approved ESCAS not provided in the expected timeframe but within 10 days of expected timeframe.

Examples of major non-compliances

Control and traceability – cattle and buffalo

- Major inaccuracies in documents for trucking to feedlot or abattoir.
- Movement of animals from vessel/aircraft, feedlot and/or abattoir to any place not included in the approved ESCAS, with no evidence that animal welfare outcomes were met.
- Major inaccuracies in record of animal identification check on arrival at or induction into feedlot.
- Major inaccuracies in record of reconciliation of animals that arrived at feedlot against animals expected to arrive at feedlot.
- Major inaccuracies in record of management of animal identification in feedlot.
- Major inaccuracies in record of feedlot mortality.
- Major breakdown in segregation between groups of animals in feedlot.
- Major inaccuracies in record of animal identification check on departure from feedlot.
- Major inaccuracies in record of animal identification check on arrival to abattoir.
- Major breakdown in segregation between groups of animals in abattoir.
- Major inaccuracies in record of management of animal identification in abattoir.
- Major inaccuracies in records when animals on-sold as breeders.

Control and traceability – sheep and goats

- Major discrepancy in the records that account for the sheep and goats that entered the approved ESCAS with the records that account for slaughter, non-slaughter mortalities and onselling of breeders.

Animal welfare

Major non-compliance with, including but not limited to:

- non-compliance in animal handling during transport or at the abattoir or feedlot
- facilities with poor infrastructure

Auditing and reporting

- Exporter, feedlot or abattoir documentation requested by independent auditors not provided in the expected timeframe but more than five days after expected timeframe.
- No information on end of processing report or independent audit report on the performance of the approved ESCAS provided more than 10 days after expected timeframe.

Examples of critical non-compliances

Control and traceability – all species

- Providing false and misleading information
- Movement of animals from vessel/aircraft, feedlot and/or abattoir to any place not included in the approved ESCAS, with evidence of adverse animal welfare outcomes
- Exported animals unaccounted for
- Cattle or buffalo not individually identified before departure from Australia
- Animal identification not checked on arrival at or induction into the feedlot
- Reconciliation of cattle or buffalo that arrived at feedlot against animals expected to arrive at feedlot not performed
- Segregation between groups of cattle and buffalo in feedlot not performed
- Management of lost animal identification in feedlot not performed
- Removal of animal identification in feedlot
- Cattle or buffalo present in feedlot that are recorded as slaughtered
- Feedlot mortality not recorded or reconciled for cattle and buffalo
- Feedlot mortality not recorded or accounted for sheep and goats
- Cattle and buffalo identification not checked prior to departing feedlot
- Cattle and buffalo identification not checked on arrival to abattoir
- Segregation between groups of cattle and buffalo in abattoir not performed
- Management of lost animal identification in abattoir not performed
- Removal of animal identification in abattoir prior to slaughter.

Animal Welfare

Critical non-compliance with, including but not limited to:

- slaughter without stunning in Mark I box or other equipment not compliant with OIE recommendations
- slaughter with more than one cut in multiple non-stunned animals.

Auditing and Reporting

- Feedlot documentation or access to feedlot requested by auditors not provided
- Abattoir documentation or access to abattoir requested by auditors not provided
- Auditors not permitted access to facilities when requested
- End of processing report or independent audit report on the performance of the approved ESCAS not provided to DAFF (following request to provide overdue end of processing report).

Appendix B: Definitions

The following table defines terms (and their abbreviations) used in this document.

Term	Definition
Approved ESCAS	<p>The approved ESCAS that the exporter nominates in the NOI submission, includes all of the components (entities) handling or processing the exported livestock from the point of vessel discharge up until and including the point of slaughter.</p> <p>An approved ESCAS is specific to an exporter, species exported, and importing country.</p> <p>Livestock exported as part of the approved ESCAS must only be handled by and processed at entities listed in the approved ESCAS. Failure to ensure this constitutes a loss of control and traceability (leakage) and a non-compliance with ESCAS requirements.</p> <ul style="list-style-type: none"> • An exporter may have more than one approved ESCAS nominated in an NOI application. • Importers may be included in more than one approved ESCAS. • Supply chain entities can be included in more than one approved ESCAS.
Delegate	Anyone who has been delegated specific powers under an instrument of delegation or sub-delegation. For the purpose of ESCAS, these powers are delegated under section 288 of the Export Control Act 2020 (the Act).
Entity	A facility (i.e., feedlot, abattoir or depot) in another country where operations in relation to a kind of feeder or slaughter livestock are carried out; or an importer of that kind of livestock.
ESCAS	<p>Exporter Supply Chain Assurance System</p> <p>An assurance system that requires the holder of a livestock export licence that covers export operations in relation to feeder or slaughter livestock to have arrangements with supply chain partners to ensure the humane treatment and handling of the livestock from arrival in the importing country up until and including the point of slaughter.</p>
Livestock	Cattle, sheep, goats, deer, buffalo and camelids, including the young of those animals.
NLIS	National Livestock Identification System.
NOI	Notice of Intention (to Export Livestock)
Non-compliance	Failure to comply with conditions of an approved ESCAS.
RFID tag	<p>Radio-frequency identification tag</p> <p>Device for the individual identification of Australian cattle. All cattle must be fitted with an RFID tag before they leave their property of birth. The device should remain attached until the animal dies or is slaughtered.</p>