



Respondent No: 2
Login: Registered

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Q1. **Is your feedback on behalf of an organisation?** Yes

Q2. **Please provide the name of the organisation**

Australian Livestock Exporters' Council

Q3. **Which state or territory do you live in?** Australian Capital Territory

Q4. **What industry or sector do you represent?** Livestock exporters
National or state peak livestock export industry bodies

Q5. **Which challenges would you like to comment on? (select all that apply)**

- 1.1 Requirements for audit company accreditation and auditor rotation
- 1.2 Specific standard/s for auditor competency to conduct ESCAS audits
- 1.3 Interpretation of requirements by auditors
- 1.4 Audit sharing and allocation of noncompliance responsibility
- 1.5 Sample sizes for audits
- 1.6 Inter-audit gap
- 1.7 Use of other surveillance methods

Q6. **In your experience, does this challenge exist?** No

Q7. **Please provide details and suggest possible solutions**

not answered

Q8. **Please provide details**

"ALEC agrees that auditors should be accredited. The current system does not specify accreditation criteria in EAN 2015-06, but DAFF has the ability to, and does currently, assess each auditor on a case by case basis. ALEC believes this outcome-based regulatory setting is appropriate and does not need to be changed, as it allows flexibility for different market conditions. The principle of auditor rotation may have some desirable features or intentions, however, ALEC members note there would be substantial practical problems if auditor rotation were mandated. DAFF already requires auditors to be independent, competent and have relevant expertise. At least in some markets, there is only a small pool of auditors with relevant expertise to draw upon and ESCAS audits do not make a large proportion of an audit firm's revenue. A one size fits all prescription for auditor rotation would be unworkable. The discussion paper outlines a series of risks. For example, the discussion paper assumes that competition on the basis of price is negative and that lower fees may lead to poorer quality audits. There is no evidence presented to suggest this has occurred in practice. The potential for conflicts of interest through repeat engagement and familiarity is also not based on evidence. It is just as likely that auditors will have concern for their reputation and being familiar with supply chains and facilities will lead to more risks being identified through learning and improved practical knowledge and experience. The risks are not presented in a balanced way and all risks must always be assessed against practical considerations."

Q9. **Please provide clarification or amendment**

not answered

Q10. In your experience, does this challenge exist? No

Q11. Please provide details and suggest possible solutions

not answered

Q12. Please provide details

"DAFF currently requires auditors to be independent, competent and possess relevant expertise. ALEC supports this remaining in place. The discussion paper notes there is no specific standard for auditor competency in relation to animal welfare traceability and control processes. Current international standards refer to generic auditor competency but no current international standards exist for control and traceability. Therefore adopting a current international standard will not address the issue. Audit firms are responsible for meeting the relevant criteria and DAFF should not prescribe how those requirements are met. ALEC believes this strays into Quality Assurance territory and is therefore out of scope for this review."

Q13. Please provide clarification or amendment

not answered

Q14. In your experience, does this challenge exist? Yes

Q15. Please provide details and suggest possible solutions

ALEC agrees this challenge exists because the current requirements are outlined in a cumbersome and subjective checklist, which causes confusion and inefficiency, resulting in high costs and regulatory burden. The instructions do not account for cultural differences and ALEC believes this may be a significant source of problems. Many of the problems stem from the interaction of the requirements with the compliance framework and that the auditor requirements tend to be used for compliance purposes, which require a degree of interpretation. Interpretations often differs between exporters, auditors and DAFF, as the regulator. Recent ESCAS compliance investigations have borne out these concerns. By way of example, the auditor guidelines allow different options to confirm death but non-compliances are applied even if one requirement listed is not met but some/all others are.

Q16. Please provide details

not answered

Q17. Please provide clarification or amendment

not answered

Q18. In your experience, does this challenge exist? No

Q19. Please provide details and suggest possible solutions

not answered

Q20. Please provide details

ALEC believes that audit sharing is a valid way for exporters to avoid duplication and reduce costs in the supply chain. It is extremely inefficient for facilities in-market to be subjected to multiple audits merely because multiple exporters are using their facilities. If a single audit can be used by multiple exporters to meet their requirements, this should be allowed and encouraged, as it will presumably lessen the workload on DAFF (and avoid cost recovered expenses). All exporters who commission a joint audit should bear collective accountability for outcomes and responsibility for corrective action. The focus of the compliance framework should be ensuring the corrective action is taken swiftly and effectively and provide incentives for continuous improvement, however DAFF currently seems to focus on identifying a responsible party and publicly reporting them as non-compliant, in an attempt to 'name and shame' exporters with no benefit for animal welfare, traceability or control. In some cases it is not possible to identify a single exporter as responsible. The collective punishment through the effect of risk ratings on audit frequencies creates poor incentives for exporters to identify issues and voluntarily report them, unnecessarily increases the regulator's workload and discourages exporters from taking joint responsibility for corrective actions.

Q21. Please provide clarification or amendment

not answered

Q22. In your experience, does this challenge exist? No**Q23. Please provide details and suggest possible solutions**

not answered

Q24. Please provide details

Given the diversity of facilities and markets, mandating particular sample sizes would be problematic. There are currently no sample sizes for feedlots and this is appropriate going forward. Minimum sample sizes are appropriate for monitoring and verification purposes in abattoirs during slaughter process but not feedlots, as the animal welfare risks are higher in the former setting. Auditors are able to, and do, record an estimation of the numbers of animals observed in a feedlot setting. Minimum sample sizes must take account of the different scale of operations and varying operating conditions of abattoirs. It is already difficult to apply the current minimum sample sizes in smaller facilities.

Q25. Please provide clarification or amendment

not answered

Q26. In your experience, does this challenge exist? No**Q27. Please provide details and suggest possible solutions**

not answered

Q28. Please provide details

"ALEC believes that the current auditing frequency settings are appropriate and that the appropriate tools to manage performance in between audits are internal audits using a risk-based approach, standard operating procedures and in-market staff training. Independent audits check processes and performance at a point in time - they are never designed to assess these things on an ongoing continuous basis and that would be an unrealistic ambition. This issue has been raised without any evidence presented on the scale of the problem. This suggestion strays into the territory of Quality Assurance and ALEC believes this is beyond the scope of the regulatory framework. There are several instances where more frequent auditing based on more rigid requirements would be unnecessary or detrimental. For example, Japan has strong national standards, a robust traceability system and control policies. Markets like Japan require far less intervention and oversight (if any) on control methodologies. In the Middle East, due to the ban on exporting livestock during the northern hemisphere summer months mean there is a substantial part of the year where Australian livestock are not processed. Increasing the stringency and/or frequency of audit requirements would raise costs, irritate customers and produce no increase in animal welfare for Australian-sourced livestock."

Q29. Please provide clarification or amendment

not answered

Q30. In your experience, does this challenge exist? No

Q31. Please provide details and suggest possible solutions

not answered

Q32. Please provide details

ALEC believes that DAFF already has multiple powers and tools available to vary surveillance levels and activities through requesting additional information from exporters, imposing additional licence conditions and the risk rating element of the ESCAS compliance framework. The discussion paper implies that third party interventions from the regulator are the only means of achieving monitoring and verification. ALEC believes that DAFF should also consider the value of internal control methods and observations by trained staff in achieving desired verification outcomes. Adding further auditing requirements, such as unannounced visits, will not be possible in some cases (for example, state-owned facilities) and/or would be onerous and irritating to customers and therefore damaging to the industry. The legal authority to conduct such activities in-market is also questionable.

Q33. Please provide clarification or amendment

not answered

Q34. Include a description of the challenge and suggest a possible solution.

not answered

Q35. Would you like to add another challenge? not answered

Q36. Include a description of the challenge and suggest a possible solution.

not answered

Q37. Would you like to add another challenge? not answered

Q38. Include a description of the challenge and suggest a possible solution.

not answered

Q39. Would you like to add another challenge? not answered

Q40. Include a description of the challenge and suggest a possible solution.

not answered

Q41. Would you like to add another challenge? not answered

Q42. Include a description of the challenge and suggest a possible solution.

not answered

Q43. Which challenges would you like to comment on? (select all that apply)

- 2.1 Overall standard or detailed requirements
 - 2.2 Expectation of 100% compliance
 - 2.3 Use of indicator events
 - 2.4 Critical control points for traceability
 - 2.5 Timely provision of data
 - 2.6 Variability in approaches
 - 2.7 Methods to verify traceability
 - 2.8 Accuracy of traceability data
 - 2.9 Third-party traceability providers
 - 2.10 Attribution of noncompliance
 - 2.11 Proportionate noncompliance
-

Q44. In your experience, does this challenge exist? Yes

Q45. Please provide details and suggest possible solutions

At present there is no standard for control or traceability under ESCAS itself. This does cause unintended consequences, as outlined in other parts of chapter 2 in the discussion paper. Exporters use several different systems, technology and processes and these should not be prescribed. The standards should only set the minimum outcomes that must be achieved and exporters must be able to develop their own system and processes. Australia's traceability system, underpinned by the National Livestock Identification System (NLIS) and its associated database is world-leading, having been developed with clear requirements and standards in place over 30 years. AniMark has also developed a proposed set of control and traceability standards in their recently revised Livestock Global Assurance Program (LGAP) Standards and Rules. These should be used to develop in-market control and traceability standards, noting that DAFF must not impose any requirements beyond those that exist domestically.

Q46. Please provide details

not answered

Q47. Please provide clarification or amendment

not answered

Q48. In your experience, does this challenge exist? Yes

Q49. Please provide details and suggest possible solutions

"There is a need here to differentiate between expectations on individual exporters versus overall system performance and limitations of technology, compliance tools, measurement, etc. A compliance strategy matrix which includes analysis of incentives generated under the system, underpinned by behavioural economics, would be a useful addition to the existing compliance strategy/policy. The system, through regulator behaviour, needs to generate incentives that reward prevention and swift rectification of non-compliance. Sanctions/Punishment/Enforcement activity should be reserved for negligent or reckless conduct. Sanctions, in this context, include administrative measures such as increasing frequency of audits and publicly naming exporters for non-compliance. ALEC is concerned that the current approach of publicly naming exporters for non-compliance has a detrimental effect on incentives to undertake corrective action and instead, encourages exporters to divert resources into proving they are not responsible for non-compliance. Another major issue with the compliance framework stems from a lack of clarity around the burden and onus of proof in establishing responsibility for non-compliance - particularly in the case where a facility in-market is used by multiple exporters at the same time. DAFF as the regulator should undertake analysis of ways to improve system performance through investment in better tools/technology/methods - this needs good incentives to promote accurate reporting of systemic non-compliance issues eg tech failure and fairly shared costs between regulator and regulated. DAFF must not impose standards or requirements beyond what is imposed domestically - see, for example, NLIS standards for RFIDs. These are the national standards as agreed by all Australian governments and livestock industries. Section 5.20 identifies the acceptable loss rates for NLIS tags in Australia. Clause 5.20.2 specifically identifies that: ""The physical loss of devices from livestock on typical Australian meat, dairy and feedlot properties must not exceed 3.5% within 3 years under normal field conditions. This includes a maximum of 0.5% transponder failure."" Noting that the department cannot impose export standards that are higher than domestic standards and that tag retention is only one of a number of risks relating to control and traceability, requiring 100% compliance in-market is unachievable, in excess of domestic standards and open to challenge. "

Q50. Please provide details

not answered

Q51. Please provide clarification or amendment

not answered

Q52. In your experience, does this challenge exist? No

Q53. Please provide details and suggest possible solutions

not answered

Q54. Please provide details

Indicator events are already used in higher risk markets through the requirement for Supply Chain Management Plans (SCMPs). In the absence of further evidence, ALEC does not believe this is an issue with the current ESCAS framework.

Q55. Please provide clarification or amendment

not answered

Q56. In your experience, does this challenge exist? No

Q57. Please provide details and suggest possible solutions

not answered

Q58. Please provide details

Exporters have developed different systems to ensure traceability at all points in the supply chain already. These are designed to meet the needs in each market and to suit the conditions and species. Whilst exporters believe a traceability standard would be helpful, it must be based on outcomes and not process. A prescriptive standard risks creating confusion, unintended consequences and/or adding complexity as it is not possible to prescribe a single process that suits all markets or conditions.

Q59. Please provide clarification or amendment

not answered

Q60. In your experience, does this challenge exist? Yes

Q61. Please provide details and suggest possible solutions

YES WITH CHANGES. The discussion paper identifies variations in timeframes between when supply chain partners are informed as an issue, noting that it may impact on the ability of exporters to respond to departmental investigations in a timely way. While ALEC agrees there should be requirements to meet standardised timeframes, these must take account of the commercially sensitive nature of the information for importers and that exporters are limited in what they can demand from their customers, without damaging their competitiveness. Any standard timeframe needs to be explained in terms of an objective or justification so that exporters have a coherent rationale to request this from their customers. Any standard timeframe must refer back to what is done domestically - the National Livestock Traceability Performance Standards are a good starting point and DAFF should note the timeframes are justified in terms of biosecurity outcomes.

Q62. Please provide details

not answered

Q63. Please provide clarification or amendment

not answered

Q64. In your experience, does this challenge exist? No

Q65. Please provide details and suggest possible solutions

not answered

Q66. Please provide details

ALEC does not believe this is an issue. Whether systems are paper based or electronic is immaterial, as long as it works. It is damaging and counterproductive to insinuate one type of system is more open to manipulation than another. Outcome-focussed standards, with verification is sufficient to achieve the desired outcome. Prescription will only stifle innovation and continuous improvement.

Q67. Please provide clarification or amendment

not answered

Q68. In your experience, does this challenge exist? No

Q69. Please provide details and suggest possible solutions

not answered

Q70. Please provide details

ALEC believes that ESCAS must remain a set of minimum requirements and it is inappropriate to prescribe internal control methods by exporters, such as oversight and verification activities. There are markets such as Japan that possess advanced traceability systems and high animal welfare requirements, so prescribing requirements under ESCAS is not necessary in these circumstances. Quality Assurance is the responsibility of exporters and is beyond the scope of this review.

Q71. Please provide clarification or amendment

not answered

Q72. In your experience, does this challenge exist? No

Q73. Please provide details and suggest possible solutions

not answered

Q74. Please provide details

Data on animal sales and slaughter is owned by importers in-market and ESCAS is unable to regulate this directly. DAFF needs to be mindful that ESCAS is administered by exporters through commercial instruments such as contracts and any requirements that are too prescriptive risk being unworkable.

Q75. Please provide clarification or amendment

not answered

Q76. In your experience, does this challenge exist? No

Q77. Please provide details and suggest possible solutions

not answered

Q78. Please provide details

Exporters may choose various means to meet regulatory outcomes. The regulatory framework should be agnostic to these choices as long as the outcomes are met. Limitations on the use of visual imagery include climatic conditions, physical environments, legal impediments and lack of connectivity.

Q79. Please provide clarification or amendment

not answered

Q80. In your experience, does this challenge exist? No

Q81. Please provide details and suggest possible solutions

not answered

Q82. Please provide details

See response to 2.7.1.

Q83. Please provide clarification or amendment

not answered

Q84. In your experience, does this challenge exist? No

Q85. Please provide details and suggest possible solutions

not answered

Q86. Please provide details

See response to 2.7.1.

Q87. Please provide clarification or amendment

not answered

Q88. In your experience, does this challenge exist? No

Q89. Please provide details and suggest possible solutions

not answered

Q90. Please provide details

See response to 2.7.1.

Q91. Please provide clarification or amendment

not answered

Q92. In your experience, does this challenge exist? No

Q93. Please provide details and suggest possible solutions

not answered

Q94. Please provide details

This is a requirement under current ESCAS audit guidelines.

Q95. Please provide clarification or amendment

not answered

Q96. In your experience, does this challenge exist? Yes

Q97. Please provide details and suggest possible solutions

YES WITH CHANGES. Any control or traceability methods to count livestock are subject to errors, including human error. This problem is not unique to the livestock export industry, but all livestock industries. This is the same issue as requiring 100% compliance (2.2, above). It is aspirational. Human error is a risk that technology hopes to overcome, but inevitably results in other risks. Risks cannot be avoided. It is also worth noting that this issue is an acceptable risk domestically.

Q98. Please provide details

not answered

Q99. Please provide clarification or amendment

not answered

Q100. In your experience, does this challenge exist? No

Q101. Please provide details and suggest possible solutions

not answered

Q102. Please provide details

See response to 2.8.1. The technology is not implemented and has not been proven to be an accurate solution to sheep and goat traceability in Australia, so ESCAS cannot require it to be used in-market.

Q103. Please provide clarification or amendment

not answered

Q104. In your experience, does this challenge exist? No

Q105. Please provide details and suggest possible solutions

not answered

Q106. Please provide details

ALEC believes this is an assertion without evidence. Any risks of this nature are currently managed appropriately by EAN 2015-06.

Q107. Please provide clarification or amendment

not answered

Q108. In your experience, does this challenge exist? Yes

Q109. Please provide details and suggest possible solutions

YES WITH CHANGES. "Unless individual animal/s can be traced back with a degree of confidence using the evidence available to an individual Australian exporter's supply chain, naming an individual exporter creates perverse incentives for exporters to collectively take proactive actions for improvement of outcomes. Collective accountability is harmed by (procedurally unfair) collective punishment. ALEC's view is that providing incentives to take positive and proactive action to improve supply chains (and removing perverse incentives) should be a priority. DAFF is empowered to manage risks through adding additional licence conditions to Australian exporters if the risks in using a facility are shown to have changed from what was previously thought. DAFF can also use licence conditions and additional verification to ensure exporters improve traceability systems and records. ALEC accepts this a legitimate use of the regulatory framework, but it should be reserved for exceptional circumstances and only be used as a temporary measure. This approach would provide an incentive and an accountability mechanism for multiple exporters to take collective responsibility for managing risks in such facilities, in the circumstances where noncompliance is identified in video footage, but livestock are unable to be identified, traced and attributed to Australian exporters' supply chains. The attribution of non-compliance is applied to the facility under the AniMark system and would likely be treated similarly as part of any other Exporter Supply Chain Assurance Operations. This would be one potential solution to this problem."

Q110. Please provide details

not answered

Q111Please provide clarification or amendment

not answered

Q112In your experience, does this challenge exist? No

Q113Please provide details and suggest possible solutions

not answered

Q114Please provide details

The classification of non-compliance ratings should vary according the severity of the non-compliance as well as the number of animals involved. The number of non-compliances should be based on the number of events, not the number of animals involved. This is how ESCAS used to operate and it should revert back. The LGAP nonconformance framework is a good model in this regard. This framework allows for reputational risk to the program owner (AniMark) and DAFF could apply a similar consideration (reputational risks to the regulator and the industry as a whole) in the ESCAS noncompliance framework.

Q115Please provide clarification or amendment

not answered

Q116Include a description of the challenge and suggest a possible solution.

not answered

Q117Would you like to add another challenge? not answered

Q118Include a description of the challenge and suggest a possible solution.

not answered

Q119Would you like to add another challenge? not answered

Q120Include a description of the challenge and suggest a possible solution.

not answered

Q121Would you like to add another challenge? not answered

Q122Include a description of the challenge and suggest a possible solution.

not answered

Q123Would you like to add another challenge? not answered

Q124Include a description of the challenge and suggest a possible solution.

not answered

Q125 Which challenges would you like to comment on? (select all that apply)

- 3.1 Framework for noncompliance
- 3.2 Corrective action and timeframes for correction
- 3.3 Process for managing allegations of noncompliances
- 3.4 Utilisation of auditors in noncompliance management
- 3.5 Effective framework for analysing noncompliances
- 3.6 Incentives for performing higher than a minimum standard
- 3.7 Consideration of risk factors in risk rating
- 3.8 Timeframe for compliance information exchange
- Additional challenges

Q126 In your experience, does this challenge exist? Yes

Q127 Please provide details and suggest possible solutions

YES WITH CHANGES. The list of potential non-compliances should never seek to be completely exhaustive, which is an impossible goal, but the categories of non-compliance should be unambiguous and mutually exclusive. Categorisation of individual non-compliances should, at least be subject to internal review. These need to be aligned with ESCAO systems. Examples/ guidance to auditors would be useful. Need some flexibility and discretion. LGAP has a list of unacceptable practices.

Q128 Please provide details

not answered

Q129 Please provide clarification or amendment

not answered

Q130 In your experience, does this challenge exist? Yes

Q131 Please provide details and suggest possible solutions

The compliance framework needs to take into account mitigating and aggravating factors. Mitigating factors would include examples like timely self-reporting and rapid corrective action. Aggravating factors would include examples like suppression of information during an audit or repeated similar non-compliances. This will improve incentives for exporters to take proactive and swift corrective action and apply lasting solutions. The incentives to self-report noncompliances are limited to compulsion to report and the risk of getting caught. If noncompliances are self-reported, this still triggers an investigative process which is burdensome and time-consuming. If the self-reported non-compliance is upheld by DAFF, an exporter will face being publicly named in a report. This severely blunts the incentives to self-report. Exporters that self-report noncompliances that are currently classified as minor or major, should be able to work with DAFF to undertake (verifiable) corrective action within a required timeframe and be able to avoid being publicly named and the impact on audit frequency through risk ratings should be less than if the noncompliance was discovered through external auditors, DAFF surveillance or third parties. This would vastly strengthen the incentives to self-report noncompliances and take rapid, effective corrective action.

Q132 Please provide details

not answered

Q133 Please provide clarification or amendment

not answered

Q134**In your experience, does this challenge exist?** Yes

Q135**Please provide details and suggest possible solutions**

See response to 3.1.2. Exporters and the regulator need to determine if the cause of repeated similar noncompliance is because of a common fault or just coincidental that the same outcome occurred from different circumstances. It is too simplistic to say it has happened more than once, therefore it is worse.

Q136**Please provide details**

not answered

Q137**Please provide clarification or amendment**

not answered

Q138**In your experience, does this challenge exist?** Yes

Q139**Please provide details and suggest possible solutions**

ALEC agrees that the current guidelines are not clear and would benefit from redrafting, especially in light of the implementation of a new export control legislative and regulatory framework.

Q140**Please provide details**

not answered

Q141**Please provide clarification or amendment**

not answered

Q142**In your experience, does this challenge exist?** Yes

Q143**Please provide details and suggest possible solutions**

YES WITH CHANGES. Greater clarity around DAFF's expectations would be beneficial, both in terms of timeframes for, and satisfactory evidence of, rectification. However, a generic prescriptive approach is unrealistic given the variety of circumstances present in export supply chains. Time limitations and measuring successful corrective action is essential to ensuring the requirements do not cascade over time. The corrective action should only continue until the non-compliance is closed out. If this is successfully incorporated into the compliance framework, applying conditions to licences to address non-compliances becomes unnecessary.

Q144**Please provide details**

not answered

Q145**Please provide clarification or amendment**

not answered

Q146**In your experience, does this challenge exist?** Yes

Q147Please provide details and suggest possible solutions

YES WITH CHANGES. "ALEC agrees that the current guidelines do not adequately explain the investigative process and the expectations on exporters to rectify non-compliances. The current investigative process lacks transparency. The role of third-parties, evidentiary standards and burden of proof on DAFF is also unclear. There are some third parties that face perverse incentives and attempt to use the investigative process to frustrate the trade. Third-parties that make spurious allegations are rarely, if ever sanctioned. Given that footage obtained in export supply chains can be difficult to date and facilities and animals difficult to identify accurately, there is a risk that third parties seek to create public outrage and solicit donations utilising footage from unknown origins and are therefore conflicted. To be clear, ALEC believes that where non-compliances are identified, these must be rectified and exporters must be held accountable. But the regulatory framework must not encourage or incentivise allegations that are not genuine from conflicted third parties. The public naming of exporters as a sanction for non-compliance is not appropriate and at odds with the Australian Privacy Principles under the Privacy Act 1998. The LGAP Certification Rules v2.0 outline a process by which a third party complainant can make a complaint about a certified entity's adherence to the Certification Rules (Clause 11). Clauses 11.1.2 to 11.1.5 state: 11.1.2 A complaint shall be deemed to have been received when: a) a written complaint has been submitted from the complainant; b) the nature of the complaint corresponds to one of the categories listed in 11.1.1; c) the complainant has access to the direct or first-hand basis of the complaint; and d) the complaint is specific and includes appropriate objective justification and evidence to substantiate any claim (credibility). 11.1.3. In addition, for complaints made to the Program Owner for types listed in 11.1.1b), c) and d), such complaints shall also be deemed to have been received when the written complaint and all associated evidence is submitted in English using the electronic complaint form available via the Program Owner's website. 11.1.4. All complaints shall be acknowledged and addressed as quickly as possible following the appropriate complaints procedure. 11.1.5. Complaints based upon hearsay or without appropriate objective justification and evidence will not be accepted by the Program Owner. ALEC recommends that an analogous approach should be explicitly incorporated into the Export Control (Animals) Rules 2021 (or similar instrument). A standard complaints template could be developed to support the complaints procedure. DAFF should not publish the complaint directly from the third party due to the risk of biased or emotive commentary accompanying the complaint, but rather DAFF should produce a dispassionate statement of the facts and evidence presented with the complaint to ensure exporters are afforded natural justice. Exporters should have access to the facts and evidence associated with the complaint and whistleblower protections could be built in to protect the complainant's identity, privacy and safety. Acting in good faith should be a pre-requisite to participating in DAFF animal welfare consultation forums. DAFF could also introduce an amendment to the stakeholder engagement policy whereby entities that make spurious or vexatious allegations are either temporarily or permanently suspended from these forums, with details of the suspensions published on the DAFF website. "

Q148Please provide details

not answered

Q149Please provide clarification or amendment

not answered

Q150In your experience, does this challenge exist? Yes

Q151Please provide details and suggest possible solutions

YES WITH CHANGES. ALEC agrees that DAFF should develop a process for auditors to oversee minor and major non-compliance and report actions taken, progress and closure This could easily be achieved by expanding the existing IPAR non-compliance section.

Q152Please provide details

not answered

Q153Please provide clarification or amendment

not answered

Q154In your experience, does this challenge exist? Yes

Q155Please provide details and suggest possible solutions

YES WITH CHANGES. Exporters already record audit, monitoring, verification and compliance activity in-market. Data relating to the Australian Standards for the Export of Livetsock (ASEL) is already captured and reported to the Department in detail through the co-funded LiveXCollect system. DAFF provides reports to parliament on a regular basis. Industry already pays significant amounts through fees and charges to recover the costs of regulatory activity, including investment in systems and reporting. The Government has provided substantial appropriations to DAFF to improve their regulatory capabilities and efficiency. If the reporting framework is inadequate, this is a signal that DAFF does not have the balance right between capital expenditure on new systems and operating expenses. Industry is opposed to further funding increases through cost recovery, when DAFF is already struggling to meet performance standards.

Q156Please provide details

not answered

Q157Please provide clarification or amendment

not answered

Q158In your experience, does this challenge exist? No

Q159Please provide details and suggest possible solutions

not answered

Q160Please provide details

ESCAS, as a regulatory framework, is constrained by the inability of the Australian Government to legislate and regulate extra territorial conduct. It cannot impose obligations beyond those imposed on similar facilities that operate domestically. It is also constrained by international trade law which means it must refer to, and cannot impose requirements beyond, World Organisation for Animal Health (WOAH) standards without being subject to challenge in the World Trade Organisation (WTO). Therefore, ESCAS can never be anything greater than a set of minimum guidelines. If the Australian Government wants to encourage performance beyond those minima, then it must look to other non-regulatory mechanisms, such as assurance schemes. These are beyond the scope of this review. there is some limited scope to vary the degree of oversight and this is already captured in the risk rating framework. KPI-based corrective action and time taken to rectify non-compliances would go some way towards this.

Q161Please provide clarification or amendment

not answered

Q162In your experience, does this challenge exist? No

Q163Please provide details and suggest possible solutions

not answered

Q164Please provide details

In principle, ALEC agrees this sounds like a sensible idea IF there is evidence to suggest other risk factors are material and easily (accurately) measured, however, it is not possible to assess any proposal without any evidence or analysis. There is also a tradeoff between having a simple, easily understood risk-based framework and introducing more complexity.

Q165Please provide clarification or amendment

not answered

Q166In your experience, does this challenge exist? No**Q167Please provide details and suggest possible solutions**

not answered

Q168Please provide details

Exporters and auditors have sufficient regular communication protocols in place to ensure information is shared in a timely way.

Q169Please provide clarification or amendment

not answered

Q170Include a description of the challenge and suggest a possible solution.

3.9 NEW: Department doesn't accept non-compliance in IPARs This issue will be explained in further detail in ALEC's submission.

Q171Would you like to add another challenge? Yes**Q172Include a description of the challenge and suggest a possible solution.**

3.10 NEW: No ability to challenge/dispute a decision made regarding a non-compliance. This issue will be explained in further detail in ALEC's submission. The compliance framework needs to ensure the regulator is accountable through clear internal and external review processes.

Q173Would you like to add another challenge? Yes**Q174Include a description of the challenge and suggest a possible solution.**

3.11 NEW: Non-compliance reporting must be impartially written This issue will be explained in further detail in ALEC's submission. Also see ALEC's response to 3.3.

Q175Would you like to add another challenge? Yes**Q176Include a description of the challenge and suggest a possible solution.**

3.12: NEW No process to review additional requirements listed on a ESCAS This issue will be explained in further detail in ALEC's submission. Any new compliance framework should be the primary mechanism to vary oversight and compliance activities. The use of licence conditions should be limited to exceptional circumstances and only permitted in the Export Control (Animals) Rules for a limited period (with limited grounds to extend them).

Q177Would you like to add another challenge? Yes

Q178 ~~Include a description of the challenge and suggest a possible solution.~~

3.13 NEW: Issuing non-compliance against a facility Suspending whole facilities when only one box/line is non-compliant is overkill and penalises compliant operators and exporters. Suspending facilities should only be considered as a last resort.

Q179 ~~Which challenges would you like to comment on? (select all that apply)~~

4.1 Facility risk ratings
4.2 Consolidation of ESCAS requirements
4.3 Mechanism for continual improvement in ESCAS
Additional challenges

Q180 ~~In your experience, does this challenge exist?~~

No

Q181 ~~Please provide details and suggest possible solutions~~

not answered

Q182 ~~Please provide details~~

Facilities are unable to be added to a supply chain without a compliant audit.

Q183 ~~Please provide clarification or amendment~~

not answered

Q184 ~~In your experience, does this challenge exist?~~

Yes

Q185 ~~Please provide details and suggest possible solutions~~

ALEC believes that managing supply chains individually can cause duplication and confusion, especially where place names are being translated into English. Third-party coordination is a way to address this issue. DAFF should accommodate industry solutions to this issue.

Q186 ~~Please provide details~~

not answered

Q187 ~~Please provide clarification or amendment~~

not answered

Q188 ~~In your experience, does this challenge exist?~~

Yes

Q189Please provide details and suggest possible solutions

ALEC believes that consolidation of ESCAS requirements is necessary and overdue. These should be contained in a well structured hierarchy between the Export Control Act 2020 (the Act), the Export Control (Animals) Rules 2021 (the Animals Rules) and a single set of ESCAS guidelines. EANs should be used as a communication tool rather than de facto regulatory instruments. That is, EANs can be used to communicate changes to the other instruments but should not be the sole source of requirements or guidance to comply with ESCAS. Careful consideration should be given to using a balance of fixed and ambulatory references in the regulatory instruments - that is, they reference external documents, such as WOA standards. Fixed references should mainly be used so that changes to ESCAS requirements are a deliberate decision of the regulator (and if necessary accountable through the Parliament - legislation or disallowable instruments). Ambulatory references can be considered in a few cases where minor, inconsequential changes to external sources occur, and these are subject to careful review through other processes (such as a technical review committee in WOA). Additional licence conditions should be seen as a temporary measure to address risks created in exceptional circumstances and their use should be explicitly limited in the Export Control (Animals) Rules 2021 through sunset provisions. That is, any additional conditions applied on an export licence should expire and not be extended indefinitely. The regulatory framework (the Act, the Animals Rules and the ESCAS guidelines) should be primary mechanism for addressing risks. The use of EANs and licence conditions as regulatory tools are too discretionary and render the regulator unaccountable as they can be changed unilaterally without consultation. This also creates risks for DAFF in overreaching beyond their capacity to regulate.

Q190Please provide details

not answered

Q191Please provide clarification or amendment

not answered

Q192In your experience, does this challenge exist? No

Q193Please provide details and suggest possible solutions

not answered

Q194Please provide details

"See response to 4.2. Having a well structured hierarchy of regulatory instruments would address most of these concerns. ALEC strongly recommends that DAFF ensure appropriate consultation and communication mechanisms with exporters are in place for material changes. Investigation, and introduction, of new research, techniques or technology should be done through, and/or in consultation with LiveCorp as the industry's levy-funded RD&E provider. Frequent reviews can cause confusion and consternation in-market and are a source of irritation. Changing regulatory instruments too frequently imposes an unacceptable impost and damages the industry's competitiveness. ESCAS should always be a set of minimum requirements and guidelines with appropriate incentives for continuous improvement. If done well, this does not require constant or frequent revision of the regulatory instruments. DAFF should introduce a notification process where all relevant exporters are informed of noncompliances identified in a supply chain as a way to prevent any future noncompliances, with appropriate privacy safeguards (for example, de-identification)."

Q195Please provide clarification or amendment

not answered

Q196Include a description of the challenge and suggest a possible solution.

4.4 NEW: Variations to Exporter ESCAS for a small change to an Importer address, to changes to the import permit. Simple, routine and inconsequential changes such as minor variations to importer addresses should not require an ESCAS variation and fees should not be charged.

Q197**Would you like to add another challenge?**

Yes

Q198**Include a description of the challenge and suggest a possible solution.**

4.5 NEW: The current format and operational procedure for IPARs is repetitive, time-consuming and inefficient. DAFF should canvass industry views on a new, streamlined IPAR template and accompanying procedure to complete it. There should be sufficient flexibility for exporters to develop their own templates/formats/etc. as long as the content requirements are met.

Q199**Would you like to add another challenge?**

Yes

Q200**Include a description of the challenge and suggest a possible solution.**

4.6 NEW: EVN in PDF format cannot be uploaded to internal reporting systems when there is a change, potential to enter information incorrectly. EVNs should be provided in both PDF and additional formats (such as EXCEL or CSV) upon request to enable exporters to upload them to internal reporting systems.

Q201**Would you like to add another challenge?**

Yes

Q202**Include a description of the challenge and suggest a possible solution.**

4.7 NEW: Timeliness to gain facility approval that are ESCAS approved. If a facility is already approved in another exporter's supply chain (and is compliant), it should be able to be added to another supply chain in a shorter timeframe. 10 days for approval shouldn't be necessary in this circumstance.

Q203**Would you like to add another challenge?**

Yes

Q204**Include a description of the challenge and suggest a possible solution.**

4.8 NEW: Make clear the differences between a standard, evidence of compliance and auditor guidance The requirements that must be met should always be included in the to-be revised ESCAS guidelines. Evidence of compliance and auditor guidance should always just be recommendations on how an exporter or auditor might meet the requirements in the guidelines. This should be explicit in any new compliance framework.

Q205**Which challenges would you like to comment on? (select all that apply)**

- 5.1 Consistency of ESCAS Animal Welfare (AW) Standards with WOH recommendations
- 5.2 Differentiating between signs of unconsciousness and signs of death
- 5.3 Method for throat cut
- 5.4 Requirements for landing sites or physical transportation
- 5.5 Specificity in the Standards
- 5.6 Consistency of structure and nomenclature of requirements under ESCAS with best practice standards design
- 5.7 Interpretation of Standard 29
- 5.8 Requirement to keep records of outcomes of processes
- Additional challenges

Q206**In your experience, does this challenge exist?**

No

Q207**Please provide details and suggest possible solutions**

not answered

Q208 Please provide details

The current wording in EAN 2015-06 is adequate. Correct use of goads at appropriate times and in limited circumstances can improve animal welfare. EAN 2015-06 (Auditor guidance for standards 1 and 2) already provides guidance on inappropriate practices.

Q209 Please provide clarification or amendment

not answered

Q210 In your experience, does this challenge exist? No**Q211 Please provide details and suggest possible solutions**

not answered

Q212 Please provide details

The current wording in EAN 2015-06 is adequate. Evidence of Compliance and Auditor guidance for standards 1, 7 and 8 provide adequate guidance on facility design.

Q213 Please provide clarification or amendment

not answered

Q214 In your experience, does this challenge exist? No**Q215 Please provide details and suggest possible solutions**

not answered

Q216 Please provide details

ALEC agree in principle to WOAHA recommendations, however including a reference to tethering should not be included in the ESCAS requirements. By making reference to tethering WOAHA article 7.5.4 could actually encourage tethering and so would be detrimental to animal welfare. How proposed changes might be received and interpreted in-market is a critical issue and must always be factored in.

Q217 Please provide clarification or amendment

not answered

Q218 In your experience, does this challenge exist? No**Q219 Please provide details and suggest possible solutions**

not answered

Q220 Please provide details

There is a commercial imperative to address the risks of predation and so ESCAS requirements are unnecessary. There has never been an instance of noncompliance related to predation

Q221 Please provide clarification or amendment

not answered

Q222In your experience, does this challenge exist? No

Q223Please provide details and suggest possible solutions

not answered

Q224Please provide details

Foetuses are beyond the scope of ESCAS and therefore outside of the scope for this review. Other countries have laws relating to slaughter of pregnant animals and including ESCAS requirements around foetuses could contradict these local laws.

Q225Please provide clarification or amendment

not answered

Q226In your experience, does this challenge exist? No

Q227Please provide details and suggest possible solutions

not answered

Q228Please provide details

The current wording in EAN 2015-06 is adequate. Compelling slaughter facilities to have a back-up stunning device, rather than a back-up stunning procedure, is too prescriptive and creates its own risks. A back-up stunning device would need to be maintained imposing additional costs and is at risk of theft or malfunction. Ironically, these additional costs would discourage the adoption of stunned slaughter in particular markets. DAFF should note the Australian AMIC Animal Welfare Standards for re-stunning: "Where the first application is not effective or the animal shows signs of recovery before death, the animal shall be re-stunned immediately, using a back-up method if required."

Q229Please provide clarification or amendment

not answered

Q230In your experience, does this challenge exist? No

Q231Please provide details and suggest possible solutions

not answered

Q232Please provide details

ESCAS AW standard 2 states: "Livestock must not be subjected to procedures that cause pain and suffering." This is an overarching standard that livestock are not subject to unacceptable practices. The list referred to under auditor guidance does note this list is not limited to the practices noted. The current wording of the standard and accompanying evidence of compliance and auditor guidance is adequate.

Q233Please provide clarification or amendment

not answered

Q234In your experience, does this challenge exist? No

Q235 Please provide details and suggest possible solutions

not answered

Q236 Please provide details

This is not an issue. Competency is demonstrated by meeting outcomes. Exporters are already required to demonstrate they have appropriate procedures and controls in place to ensure outcomes are met.

Q237 Please provide clarification or amendment

not answered

Q238 In your experience, does this challenge exist? Yes**Q239 Please provide details and suggest possible solutions**

"One of the issues is referring to unconsciousness rather than insensibility (preferred terminology). ESCAS should use a standard based on LGAP and the Domestic Industry (AMIC) Animal Welfare Standard for Livestock Processing Establishments. A proposed standard is: STUNNING: Standard: The facility shall ensure that: A. effective stunning is confirmed before hoisting or sticking commences; B. livestock remain unconscious during the period between stunning and death; and C. insensibility is monitored in accordance with a documented procedure, where animals remain unconscious from stunning until death. Evidence of Compliance: Stunning means any mechanical, electrical, chemical or other procedure that causes immediate loss of consciousness; when used before slaughter, the loss of consciousness lasts until death from the slaughter process. Any stunning method shall render an animal insensible for sufficient time that it does not regain sensibility before death occurs. Once the animal is confirmed as insensible, it can be subjected to slaughter. Death means the irreversible loss of brain activity demonstrable by the loss of brain stem reflexes. Auditor Guidance: A. Signs of effective stunning can be assessed using the following guidance: • Immediate collapse • Initial tonic reaction then clonic activity • No rhythmic breathing • Eyes unfocused and no corneal reflex • Jaw and tongue are loose • No spontaneous blinking and no blink in response to waving a hand in front of the eye. B. Indicators of insensibility can include: • complete loss of posture; • no attempts to regain or to retain upright body posture; • absence of tracking by the eye of movements in the vicinity (often accompanied by spontaneous blinking); or • no spontaneous blinking and no blink in response to waving a hand in front of the eye. C. Confirming death: Indicators of death include: • Cessation of pulsatile bleeding • Permanent absence of brain stem reflexes such as corneal reflex, rhythmic breathing or gagging. NON-STUN: (Grandin 2021) Signs of Insensibility in Religious Slaughter Signs of insensibility are distinct for un-stunned, religiously slaughtered livestock. Auditors may confirm insensibility by observing for: • The eye roll and absence of spontaneous, natural blinking. • A weak corneal reflex may still be present immediately after the eye roll. • The animal may continue to gasp or breathe after the eye roll for a period of several seconds."

Q240 Please provide details

not answered

Q241 Please provide clarification or amendment

not answered

Q242 In your experience, does this challenge exist? Yes

Q243Please provide details and suggest possible solutions

"The discussion paper only refers to ESCAS AW standard 22 when discussing throat cutting as a method of slaughter. ALEC believes there are some issues with ESCAS AW standards 21 and 24 also to ensure they are clear and consistent with the WOAHP standards (article 7.5.9 of the Terrestrial Animal Health Code). WOAHP only states the following requirements: "A very sharp blade or knife of sufficient length so that the point of the knife remains outside the incision during the cut; the point of the knife should not be used to make the incision. The incision should not close over the knife during the throat cut." Clauses 9.14, 9.15 and 9.21 of LGAP standard 1001 (2021) v 2.0 provide suitable guidance on meeting those requirements. ESCAS AW standard 24 should refer to an animal being in position rather than a box being in position."

Q244Please provide details

not answered

Q245Please provide clarification or amendment

not answered

Q246In your experience, does this challenge exist? No

Q247Please provide details and suggest possible solutions

not answered

Q248Please provide details

Transport and discharge ports pose a low risk in the ESCAS supply chain. They are managed by the importer who has commercial incentives to ensure animals arrive at the feedlot in good order. Transport and port discharge is audited in the case of a new market for any new importers for an exporter. Discharge processes are also overseen by exporter representative AWO's and Australian Accredited Stockpersons.

Q249Please provide clarification or amendment

not answered

Q250In your experience, does this challenge exist? No

Q251Please provide details and suggest possible solutions

not answered

Q252Please provide details

Better referencing and consistency with WOAHP, rather than greater specificity/prescriptiveness in ESCAS AW standards is required to address the cause of this issue.

Q253Please provide clarification or amendment

not answered

Q254In your experience, does this challenge exist? No

Q255Please provide details and suggest possible solutions

not answered

Q256Please provide details

The current structure of ESCAS Standards, Evidence of Compliance and Auditor Guidance is adequate and fit for purpose but greater clarity around each category is needed. If DAFF is concerned about varying and inconsistent interpretation between facility operators, exporters and auditors, DAFF should clarify the status of each column in EAN 2015-06. It is ALEC's view that the standard should describe the regulatory outcome without prescribing the means to achieve it, the evidence of compliance provides a list of practices that will achieve the required outcome (but other practices may also be acceptable) and the auditor guidance will provide further detail on how the required outcome may be achieved or demonstrated, but these are not mandatory. Prior to 2016, ESCAS used to refer to guidance to meet OIE whereas it now refers to ESCAS standards. DAFF should revert back to the former terminology, which is a more accurate description, as ESCAS is limited to meeting OIE (now WOH) standards. Using the term 'best practice' in this context is inappropriate, unhelpful and beyond DAFF's role in setting minimum regulatory outcomes to be met.

Q257Please provide clarification or amendment

not answered

Q258In your experience, does this challenge exist? No

Q259Please provide details and suggest possible solutions

not answered

Q260Please provide details

Standard 29 is only a problem when the regulator interprets other standards (and therefore the 'appropriate' standard operating procedures (SOPs)) inconsistently. Appropriateness of SOPs depends on the markets and facilities involved and relies on competency of persons involved. Due to the wide range of market and operating conditions, this standard (and accompanying evidence of compliance and auditor guidance) requires considerable flexibility. DAFF needs to ensure it doesn't stray into the role of quality assurance and prescribe what should be internal control methods for exporters, facility operators and auditors/third party providers of assurance.

Q261Please provide clarification or amendment

not answered

Q262In your experience, does this challenge exist? No

Q263Please provide details and suggest possible solutions

not answered

Q264Please provide details

This is not a challenge, but prescription of a specific process to demonstrate an outcome. There is no evidence presented to justify the need for daily checklists, which would impose a significant cost burden. This strays into quality assurance systems which is outside the scope of the review. It is up to exporters to ensure their ESCAS arrangements continue to meet the standards.

Q265Please provide clarification or amendment

not answered

Q266Include a description of the challenge and suggest a possible solution.

5.9 NEW: Vocalization % for non-stun slaughter The percentage for vocalisation is currently 3 per cent. According to Temple Grandin (NAMI 2021), for kosher or halal slaughter, 5 per cent vocalisations are acceptable.

Q267Would you like to add another challenge? No

Q268Include a description of the challenge and suggest a possible solution.

not answered

Q269Would you like to add another challenge? not answered

Q270Include a description of the challenge and suggest a possible solution.

not answered

Q271Would you like to add another challenge? not answered

Q272Include a description of the challenge and suggest a possible solution.

not answered

Q273Would you like to add another challenge? not answered

Q274Include a description of the challenge and suggest a possible solution.

not answered

Q275Confidentiality Is your response confidential? No

Q276Please specify the parts of your response that are confidential

not answered

Q277Publication on our website Do you agree to your response being published on our website? Yes

Q278Please de-identify my response not answered

Q279Confirm that you have read and understand this privacy notice. Yes

Q280Confirm that you have read and understand this declaration. Yes
