

NURSERY PAPERS

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MEETING THE NEEDS OF MODERN BIOSECURITY LEGISLATION

BioSecure HACCP is the Nursery Industry's best practice biosecurity program for production nurseries. A lot has changed since 2008, when BioSecure HACCP Guidelines were first made available to growers, including changes to the way that government deals with biosecurity.

In this Nursery Paper, NGIA's National Biosecurity Manager John McDonald and NGIA Technical Assistant Grant Telford talk about recent changes to biosecurity legislation, and how BioSecure HACCP is well positioned to assist growers in meeting modern biosecurity related legislative requirements.

Summary

- Traditional biosecurity regulation was focused on specific requirements for specific situations to control specific risks
- Modern legislation uses the 'duty of care' principle, which requires all people to take all reasonable and practical steps to address biosecurity risk (not just, in the case of the nursery industry, the grower)
- The nursery industry's BioSecure HACCP system is well placed to support compliance to the new legislative obligations by identifying biosecurity risks (and risk areas) related to production nurseries and providing growers with reasonable and practical advice to address those risks.



BIOSECURITY – THEN AND NOW

When BioSecure HACCP was first published, Australian State and Territory governments tended to take a more traditional approach to biosecurity risk and biosecurity regulation. Acts and Regulations were focused on making specific requirements about what a person in a specific situation must or must not do related to a specific pest or a specific activity to control a specific risk associated with a plant pest and/or disease.

Legislation will still be required to deal with significant and known biosecurity risks in the same way. However, regulators now acknowledge that biosecurity is an extremely complex and ever changing area and that new tools are required to cope with that complexity and any unaccounted biosecurity risk in an efficient, effective and reasonable way.

One tool that has been widely incorporated into legislation in other areas to control complex, variable and changing risk is the 'duty of care' provision.

Growers will be familiar with the concept of exercising a duty of care in the workplace, as this concept has been practiced by businesses for quite some time to address workplace health and safety risks to staff, visitors and customers. Modern biosecurity legislation developed in Queensland and New South Wales is following the same path by imposing a duty of care or an obligation on persons to address biosecurity risks.



DUTY OF CARE IN BIOSECURITY

The *Biosecurity Act 2014 (Queensland)* commenced on 1 July 2016. One key feature of the Act is that it acknowledges that a person who undertakes an activity that poses a biosecurity risk is a 'risk owner', and that person has a duty of care to others to address that risk. The Act does this by imposing a General Biosecurity Obligation (GBO) on all persons.

The GBO applies to a person if the person knows that a thing or an activity that they are in control of poses a biosecurity risk. The GBO requires that the person must take all reasonable and practical steps to prevent, eliminate or minimise that risk.

Similarly, new legislation developed in New South Wales, the *Biosecurity Act 2015*, is due to commence in early 2017. The NSW legislation takes the same approach as legislation developed in Queensland; however, it uses the term 'General Biosecurity Duty' in place of the term GBO.

Industry expects other States and Territories to also strongly consider and adopt this approach as they continue to review and update their biosecurity legislation. Tasmania is already in the process of reviewing its legislation for updating and taking on modern risk management strategies.

BIOSECURITY RISK AND OBLIGATIONS

A biosecurity risk is any risk related to plants and animals that could cause an adverse effect on:

- human health (for example, Hendra virus in horses which can be transmitted to people)
- social amenity (for example, red imported fire ant impacts in public places)
- the economy (for example, pests and diseases of plant grown commercially); and
- the environment (for example, invasive plants).

Legislation provides a framework for the control of the risks created by the pests and diseases themselves, and activities that people could take, or not take, that could increase the risk(s) posed by these pests and diseases.

Growers are already exposed to many biosecurity risks created by endemic pests and diseases that stated off as exotic – examples would include whiteflies and myrtle rust. Biosecurity Obligations/Duty of Care will require all people to take all reasonable and practical steps to address biosecurity risk – not just the grower, which is a positive step as the grower has typically carried the legislative burden and suffered

financially from uncontrolled biosecurity risk in the past.

The following examples suggest how a Biosecurity Obligation/Duty of Care could apply to different persons in different situations:

- A production nursery produces plants that are continually exposed to endemic pests of a biosecurity concern that must be prevented from being moved on the plants due to impacts on other crops and the environment. Regularly monitoring plants and taking steps to control the pests throughout the production cycle, then conducting plant pest inspections to meet customer expectations at despatch could be considered as a practical and reasonable way to address a Biosecurity Obligation/Duty of Care associated with plant production, impact and spread of biosecurity pests.
- A home owner keeps fruit trees on their property that they know could be a continual and significant source of pest and disease infestation to a neighbouring professional fruit tree production nursery. The home owner takes simple steps to control the pests and diseases including removal of unwanted or dead/dying trees. This could be considered as a reasonable



and practical way for the person to address the biosecurity risk to the production nursery that the home owner has created.

In considering the examples provided above it is also important to note that:

- the legislation does not require that all persons know about all biosecurity risks. It acknowledges that knowledge of risk can only be expected based on a person's own experience and circumstances.

It only imposes Biosecurity Obligation/Duty of Care related offence provisions in regard to not addressing biosecurity risks that a person knows about, or ought reasonably to know about – it would be reasonable to assume that a grower would and should have a greater knowledge of plant related biosecurity risk than others not directly involved in plant production; and

- that Biosecurity Obligations/Duty of Care have not yet been tested in the Australian court system, so it is

unclear what approach regulators will take in compliance monitoring, enforcement and interpretation of the Biosecurity Obligation provisions.

It is clear that the success or failure of the Biosecurity Obligation/Duty of Care provisions will be directly related to the engagement and education of people generally in the identification and control of significant and important biosecurity risks by both government and other stakeholders – within their own spheres of control.

BIOSECURE HACCP

BioSecure HACCP was developed to build on the nursery industry's best management practice Nursery Industry Accreditation Scheme Australia (NIASA) to provide a way for growers to specifically address biosecurity related risks to their businesses.

Although the primary objective of BioSecure HACCP is to promote profitability and sustainability of users in respect to biosecurity i.e. pest,

disease and weed management, it is also well placed to support compliance to new biosecurity duty of care related legislative obligations.

BioSecure HACCP applies the 12 defining principles of Hazard Analysis Critical Control Point (HACCP) to the management of biosecurity risks at farm level providing a creditable risk identification and control process for growers. The BioSecure HACCP guidelines identifies biosecurity risks (and risk areas) related to production nurseries and provides growers with reasonable and practical advice to address those risks.

The BioSecure HACCP guidelines addresses biosecurity risk prevention, identification and control through comprehensive procedures associated with grower activities. A total of 14 procedures are provided in the guideline. Not all procedures will necessarily apply to each production nursery using the program. Table 1 provides some examples.

TABLE 1:

RISK CONTROL ASPECT	PROCEDURE	
Preventing inadvertent infestation of a production area through the introduction of pests by contaminated people and products	A1.5.2 A1.8 A1.9	Growing Media Quality Visitor Procedure Incoming Plant Quarantine
Identifying pests on site or in a production area to allow control and to limit the impact of those pests	A1.10	Pest, Disease & Weed Crop Monitoring Procedure
Minimising the risk of spread of diseases that may be present as contaminants	A1.3 A1.7	Disinfestation of Plant Containers (pots and trays) Cleaning and Disinfestation Procedures
Minimising the risk of spread of pests from the production nursery	A1.13	Despatch Inspection Procedure





NGIA was awarded an Australian Biosecurity Award in 2015 for BioSecure HACCP (accepted by John McDonald)

RECOGNITION OF BIOSECURE HACCP BY GOVERNMENT

BioSecure HACCP is the first industry developed on-farm biosecurity program in Australia (and perhaps the world) to also be used as a market access instrument to provide assurance that a grower has addressed relevant biosecurity risk.

Government has already approved a number of production nurseries using BioSecure HACCP in Queensland and Victoria to trade with their clients' interstate during a trial phase of the program.

Based on the success of the trial, and overwhelming support of the program from Australia's Plant Health Committee, it is expected that states and territories will phase in the

adoption and recognition of BioSecure HACCP as an acceptable tool to control biosecurity risk for market access purposes.

BIOSECURE HACCP SUPPORTING BIOSECURITY OBLIGATIONS

Both the Queensland and New South Wales legislation provides ways that a person can 'discharge' their Biosecurity Obligations. They are by:

- complying with a regulation where a regulation exists that provides requirements for dealing with a specific risk (as a mandatory measure).
- following an approved Code of Practice about a risk, or by following a way that is as effective or more effective than the way stated in a code (Queensland only).

- proving that they exercised 'due diligence' by demonstrating that they took reasonable precautions in regard to the Biosecurity Obligation.

By following the best management practices included in BioSecure HACCP to control biosecurity risks, and keeping records of those actions, a person could use BioSecure HACCP to provide evidence that they exercised due diligence in the circumstances to meet their Biosecurity Obligations/Duty of Care.

BioSecure HACCP is the on-farm biosecurity program for production nurseries in Australia. The program provides businesses with a systematic approach to assess on-farm biosecurity hazards and responsibilities and it details how to best manage these identified risks.

The guidelines have been developed following Hazard Analysis and Critical Control Points (HACCP) principles, which is the world recognised standard in risk management processes. BioSecure HACCP has been developed under the 12 defining principles of HACCP, providing a credible risk identification and management process for production and growing media businesses.

LINKS TO RESOURCES

BioSecure HACCP: http://www.ngia.com.au/Category?Action=View&Category_id=127

Queensland Biosecurity Act 2014:

<https://www.daf.qld.gov.au/biosecurity/about-biosecurity/biosecurity-act-2014>

New South Wales Biosecurity Act 2015:

<http://www.dpi.nsw.gov.au/content/biosecurity/biosecurity-act-2015>