

MEMO: EMS REVIEW 2011 – Outcomes

In November 2010 the initial call was made for EMS submissions which were due on the 25th of January 2011. A total of 3 Grower, 5 Packer and 2 Exporter submissions were received. The EMS committee met on the 2nd of February and again on the 24th of February to review the grower and packer submissions and finalise their proposal for consideration by the RPG. The proposal was considered by the RPG at their meeting on the 1st of April 2011. The decisions made are indicated in this memo.

EMS TOR

The EMS committee agreed that the EMS review process required a Terms of Reference (TOR) similar to the Quality Standard's recognising the importance of the consultation phase.

Outcome:

The EMS committee approved a TOR.

EMS Committee – stakeholder representation

The Packers have advised they would like to have a representative on this committee. This suggestion created discussion on the makeup of the EMS committee and whether or not this committee should or should not review all submissions. Under the current EMS the grower submissions are reviewed by the committee and the packer and exporter submissions are reviewed by the CEO. The committee felt that all submissions should be reviewed by the committee because an exporter submission could very well suggest a change that could impact growers.

Outcome:

- 1. The EMS committee will review all Grower, Packer & Exporter submissions.**
- 2. The EMS committee representation will be changed to include a Packer and an Exporter representative.**
- 3. The EMS committee membership will be reviewed every 2 years.**

Registered Exporters & Packers

A submission received requested that consideration be given to tightening up the pre-requisites for qualification to be registered as an exporter or as a packer and/or substantially increase the registration fees in an effort to bring efficiencies into our Industry.

With regard to EMS requirements for Exporters, the HEA legislation is intended to be enabling rather than restrictive and therefore any effort to restrict the number of Exporters is unlikely to be supported by the HEA Board.

In respect of Packers it was noted by the committee that there has been a natural attrition and subsequent reduction in the number of packers.

Outcome:

The committee referred this for discussion by the AIC Board but recommended no change to the EMS for 2011/2012.

Local Market

The AIC was asked to consider increasing the scope of the EMS and include an overall marketing strategy that encompasses local market issues.

The ability to regulate the local market is specifically excluded from the EMS which deals solely with export fruit, however broad policy statements can be made although these have no effect under the EMS.

Outcome:

Following some suggestions by HEA and as part of the overall EMS review process over the coming year, the AIC will propose a local market strategy be included to the 2012/2013 EMS.

Production Based Royalties (Clause 4.2.4.23)

The submitter felt this clause appeared to be very cryptic leaving the reader with more questions than answers.

Each PVR protected cultivar is potentially different in terms of how royalties are applied and is determined by the PVR holder. Currently all royalties are collected as a one off payment included in the purchase price of the tree and there are no production based royalties. A statement to this effect will be included in the 2011 EMS.

Outcome:

The EMS has been revised accordingly to include a statement that a one off payment is included in the purchase price of the tree.

2010/2011 definition:

“Each Grower must pay royalties for fruit cultivars which are managed by the AIC and which are protected by Plant Breeders Rights (contained within the Plant Variety Rights Act 1987) prior to harvest and export of such fruit.”

2011/2012 clarification:

“Each Grower must pay royalties for fruit cultivars. Each PVR protected cultivar is potentially different in terms of how royalties are applied but currently all royalties are collected as a one off payment included in the purchase price of the tree.”

Unpaid Management Fees incurring Interest (Clause 8.2)

The submitter believed the way this clause was written leaves it open to interpretation as to who actually pays the interest on unpaid fees.

The committee noted this concern and and agreed to alter this clause with the words:

“thereafter unpaid fees shall incur interest payable by the exporter at the rate of 2% per calendar month.”

Outcome:

EMS Clause 8.2 with change incorporated

“The management fee payable to the AIC shall be at the rate of 52.5 cents for each 5.5kg tray equivalent, payable by the Grower. The total payment of 52.5 cents per tray equivalent shall be collected by the Exporter and paid to the AIC by the 20th day of the month immediately following remittance for the sale being received for the export consignment. Thereafter unpaid fees shall incur interest payable by the Exporter at the rate of 2% per calendar month.”

AvoGreen Specifications (Clause 4.2.4.25)

This submitter felt the current guidelines are far too vague and he personally has experienced an anomaly which is confusing. The submitter was asked for further clarification and advised the issues are around monitoring of trees and the possibility of missing an infestation.

AvoGreen monitoring is conducted from the ground on sample trees only and does not monitor these trees from top to bottom.

Outcome:

Submitted to be invited to be part of the AvoGreen review process.

MRL Requirements (*Clause 4.2.4.8*)

This submitter would like the AIC to advise growers of any information within the MRL requirements.

The AIC currently provides this information in the electronic spray diary and the Grower section of the industry website. The committee agreed for the AIC to repeat disclaimers relating to withholding periods in the Grower section of the Quality Manual similar to the Packer section. The AIC will also provide specific wording, on the on-line export registration program, of the need to read the material in the linkages. The AIC will also have copies of the EMS and Grower section of the Quality Manual emailed directly to growers as part of the electronic registration process.

Outcome:

For the 2011/2012 season, when a grower registers for export the web will automatically email the grower a pdf of both the changes to the EMS and the MRL's.

Violations of the EMS (*Clause 6.4*)

The submitter was concerned that the EMS was not specific enough around penalising any party that abuses or violates the EMS regulations.

The EMS committee believes this section does fully cover the submitter's concerns.

Outcome:

The grower to be advised of the nature of the current provisions as outlined in sections 6.4 to 6.9 of the EMS.

Reed

This submitter would like the EMS to facilitate the export of Reed avocados to include all destinations currently available for Hass avocados at the dry matter % as indicated by the customer.

The committee noted that the Exporter has the option of seeking an EMS exemption to export at a lower dry matter on a trial basis in the next season.

Outcome:

This submission was referred to the Quality Standard's committee.

48hr Pick to Pack Dispensation – segregated into separate pallets

This submission advised that the requirement to physically segregate product is no longer required as an electronic indicator can be attributed in the inventory system to the actual packs utilising either packrun or block identifier that contain fruit packed outside of 48hrs.

Any solution needed to work for the handlers ripening the product as this was the basis of the current requirement.

Outcome:

This submission was referred to the Quality Standard's committee.

Packaging

This submission requested that the grade standards for the packing of Coles RPC's and M5 packtype be corrected to accurately reflect the customer requirements aligning the industry weight bands with the correct count and pack weights.

The committee felt that this submission raised broader issues in relation to reporting requirements as currently each packaging type has one multiplier to obtain 5.5kg requirements. This request would add the complexity of different multipliers for different count sizes.

Outcome:

This submission was referred to the Quality Standard's committee.

EMS Submissions

This submitter requested that the deadline for submissions on the EMS be extended to the end of February in any one year as the current deadline was inconvenient for Packers.

The committee agreed that some accommodation could be made and as a result all stakeholders will be advised that:

1. They can provide submissions either for the EMS or Quality Standard's at any time during the year.
2. When the call for EMS specific submissions is made the due date will be pushed out by 2 weeks to mid February in any year but not beyond that as there are processes that need to be completed prior to the EMS being sent to HEA for sign off.
3. No late submissions beyond this date will be accepted.

Outcome:

Submissions may be made to the EMS or Quality Standard's committee at any time during the year. The close off date for EMS submissions will be extended to mid February 2012. No late submissions will be accepted.

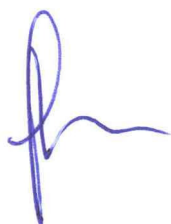
Audits – number of

This submission raised several issues the major one being the number of audits that Packers have to submit to in a season. These included industry EMS audits, phytosanitary surveillance audits, AQIS inspections, customer inspections and Food Safety audits amongst other audits.

The committee agreed that relatively few of the audits were initiated by the industry with the majority initiated by MAF, AQIS and the customer. It was recognised as being desirable to have equivalence systems operating which would recognise the different audits taking place.

Outcome:

The AIC will in its normal course of business look for ways to minimise compliance costs to export. Other issues in this submission were referred to the Quality Standards committee.



Jen Scoular
CEO