



INSTRUCTIONS AND GUIDELINES

Detained Goods Management – Treatment of goods held by Customs and Border Protection that may present AQIS risks

December 2010

This Instruction & Guideline refers to Practice Statement:

2008/11 Detained Goods Management

Published date:	15 December 2010
Availability:	Internal and External
Subject:	Detained Goods Management – Treatment of goods held by Customs and Border Protection that may present AQIS risks – November 2010
Purpose:	Inform Cargo officers how to process detained goods that present concerns to AQIS
Owner:	National Director Cargo
Category:	Operational Procedures
Contact:	Director Air Cargo Improvement – (02) 8339 6374

The electronic version published on the intranet is the current Instruction and Guideline.

Summary of main points

- No goods will be received into Detained Goods Management (DGM) stores unless they have been AQIS cleared. Goods posing potential quarantine risks should be assessed by AQIS while they are at the seizing/detention site.
- Cargo Officers must adhere to the processes outlined in this document to mitigate the potential quarantine risks of detained goods.

This I&G applies to staff in:

- Detained Goods Management Stores
- Air Cargo Operations
- Programmed Examinations
- Container Examination Facilities
- Gateway Facilities

Introduction

Detained Goods Management (DGM) Instructions & Guidelines have been developed to provide a framework to ensure the secure storage of goods and promote accountability and consistency in the operations of the DGM function.

The requirements of the Australian Quarantine & Inspection Service (AQIS) are to be actively applied to all goods, including goods detained by the Australian Customs and Border Protection Service, to ensure any quarantine risk is minimised.

The purpose of this instruction and guideline is to ensure that:

- Cargo line areas of Customs and Border Protection are appropriately managing and treating quarantine risks;
- Cargo line areas, DGM and AQIS representatives communicate effectively;
- All processes regarding the transfer of detained goods to DGM that pose a quarantine risk to AQIS are correctly documented.

The information contained in this instruction & guideline must not be disseminated outside Customs and Border Protection without direct permission from DGM Policy.

Instructions and Guidelines

Background

In January 2006, Customs and Border Protection seized an importation that resulted in the exotic infestation of a Customs and Border Protection DGM facility.

As a result, representatives from Customs and Border Protection and AQIS NSW developed and trialled a set of procedures to address future potential quarantine concerns associated with detained goods. Due to the success of these procedures, they have been implemented nationally. This instruction and guideline outlines the process required to be followed by Cargo officers.

Information and procedures required to mitigate the potential quarantine risks associated with detained goods

The following attachments detail the processes and the information required to mitigate the potential quarantine risks associated with goods detained/seized by Cargo line areas of Customs and Border Protection. This information facilitates the efficient movement of these goods into and out of Customs and Border Protection DGM areas.

Attachment A outlines the process from the time that the goods are examined through to their movement to DGM areas or their destruction. Key decision points are highlighted within the process and the specific activity required to progress to the next step.

Attachment B is a flow chart outlining the process to be followed once the goods are accepted by DGM. Key decision points are highlighted within the process to integrate these goods as seamlessly as possible into the DGM business-as-usual processing stream.

Attachment C is an AQIS referral list that details each type of good that requires referral to AQIS for possible treatment when detained by Cargo line areas of Customs and Border Protection e.g. food items, plant products, fertiliser.

An 'Advice for Handling of Goods Held by Customs and Referred to AQIS' document is completed by the appropriate AQIS officer where the detained goods have been identified as a potential quarantine risk and subsequently risk assessed. This document is referred via fax/email to the appropriate Customs and Border Protection contact and held on file. A copy of this document is posted on the DGM intranet webpage.

Goods will not be received into DGM stores unless they have been AQIS cleared. Where possible goods should be assessed by AQIS while they are at the site of seizure/detention. This applies equally to goods located at a Container Examination Facility (CEF). AQIS will determine what/if treatment is required for goods on a case-by-case basis. For each consignment, AQIS will provide a document titled 'Advice for Handling of Goods Held by Customs and Referred to AQIS'. Guidelines for when treatment is to be undertaken by line areas are outlined on the DGM intranet webpage.

Managed delivery action is undertaken, as required, by Investigations officers to assist in the investigation of offences and the prosecution of alleged offenders. Any possible quarantine risks associated with managed delivery actions must be referred to AQIS prior to the conduct of field activities by Investigations officers. Guidelines for managed delivery action involving goods of potential interest to Quarantine are posted on the DGM intranet webpage.

A list of the appropriate AQIS contact officers across Australia is located on the Air Cargo and Detained Goods sharepoint site and the DGM intranet webpage.

A list of the Customs and Border Protection DGM officers across Australia is posted on the Air Cargo and Detained Goods sharepoint site as well as the DGM intranet webpage.

Issues arising out of advice from AQIS that Goods should be destroyed

In cases where goods have been identified by Customs and Border Protection officers to be Prohibited Imports and are subsequently seized under the *Customs Act 1901*, but AQIS advise that the goods require destruction due to quarantine risks, legal issues may arise. Section 206 of the *Customs Act 1901* (Immediate disposal of certain goods) applies to this situation. This section deals with perishable goods, live animals, dangerous goods and unseaworthy vessels which have been seized and enables the goods to be dealt with as the CEO or relevant Regional Director considers appropriate, including by destruction.

The Australian Government Solicitor advises that the following procedures need to be followed in these circumstances to ensure that legislative requirements are satisfied.

- Advise the operator of the Customs place that the goods have been seized and are no longer under their control.
- Customs and Border Protection will take photographs of the goods and the officer will write a statement identifying the photographed goods as Prohibited Imports.
- As well as Customs and Border Protection sending the Seizure Notice to the owner of the goods in accordance with s205, a Notice of Disposal of Goods should also be served on the owner of the goods in accordance with s206. Where the owner cannot be identified, the notices should be served on a person who had possession or control of the goods when they were seized. If no one of this kind can be identified, then a copy of the notices must be published in a newspaper circulating in the location in which the goods were seized (see ss205(3)(b) and 206(4)(b) of the *Customs Act 1901*).
- Provide the owner of the goods with the 'Explanatory Notes for Seizure and Disposal of particular goods'.
- A single covering letter for BOTH Notices should be prepared explaining that:
 - the procedure outlined in the Seizure Notice has been superseded due to the need to deal with the goods under section 206 of the Customs Act;
 - the right to recover the market value of the goods only exists if the matters set out in s206(7) are established.

The situation may arise where a consignment is still under Customs control but is of interest to AQIS officers, who wish to remove the item from the Customs place to destroy it, or treat and return it. Legal advice from the Australian Government Solicitor

states that in these circumstances, a Quarantine officer would likely order that the goods be entered into Quarantine under the provisions of the *Quarantine Act 1908* (Cth).

Copies of the Notice of Disposal of Goods, Explanatory Notes for Seizure and Disposal of particular goods, and a covering letter for both notices can be accessed on the DGM intranet webpage.

Issues/ impediments for Customs and Border Protection

This regime does not appear to pose any legal impediment to Customs and Border Protection. If Customs and Border Protection has control of goods which become subject to Quarantine, Customs and Border Protection would need to relinquish that control for the purpose of the goods being destroyed or treated by AQIS under the Quarantine Act.

The DGM intranet webpage can be accessed via the following link:

<http://intranet.customs.gov.au/technology/customs-systems/goods/dgms/default.asp>

The Air Cargo and Detained Goods sharepoint webpage can be accessed via the following link:

<http://acapp001/Cargo/AirCargoDG/default.aspx>

Related Policies and References

Practice Statements:

- Detained Goods Management 2008/11

Other Instructions & Guidelines

- Detained Goods Management – Occupational Health & Safety March 2009
- Detained Goods Management - Wildlife Goods

Key Roles and Responsibilities

- Detained Goods Management officers – liaising with AQIS officers whilst processing the detained goods.
- Manager of regional Detained Goods Management facilities – delegation for approving the condemnation of detained goods.
- Investigations officers liaising with AQIS officers concerning goods for use in managed delivery activity.

Consultation

Internal

(Note that if there are any OH&S implications, it is mandatory to consult with the Safety, Health and Wellbeing section of Staffing Branch)

The following internal stakeholders have been consulted in the development of these Instructions and Guidelines.

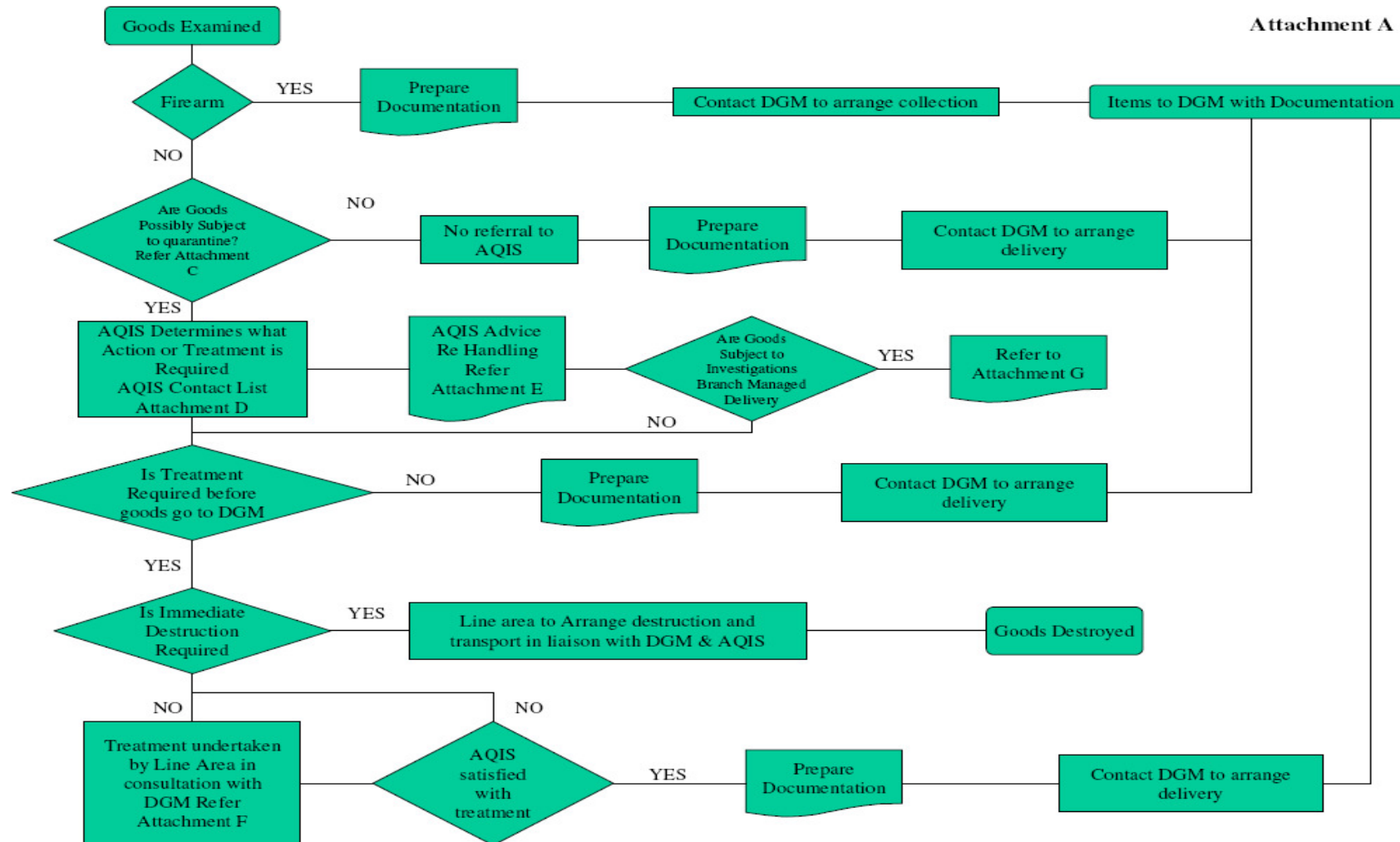
- Cargo – regional Detained Goods Management work areas.
- Cargo – National Manager Air Cargo and Detained Goods
- Investigations Branch
- Passengers
- Enforcement Operations

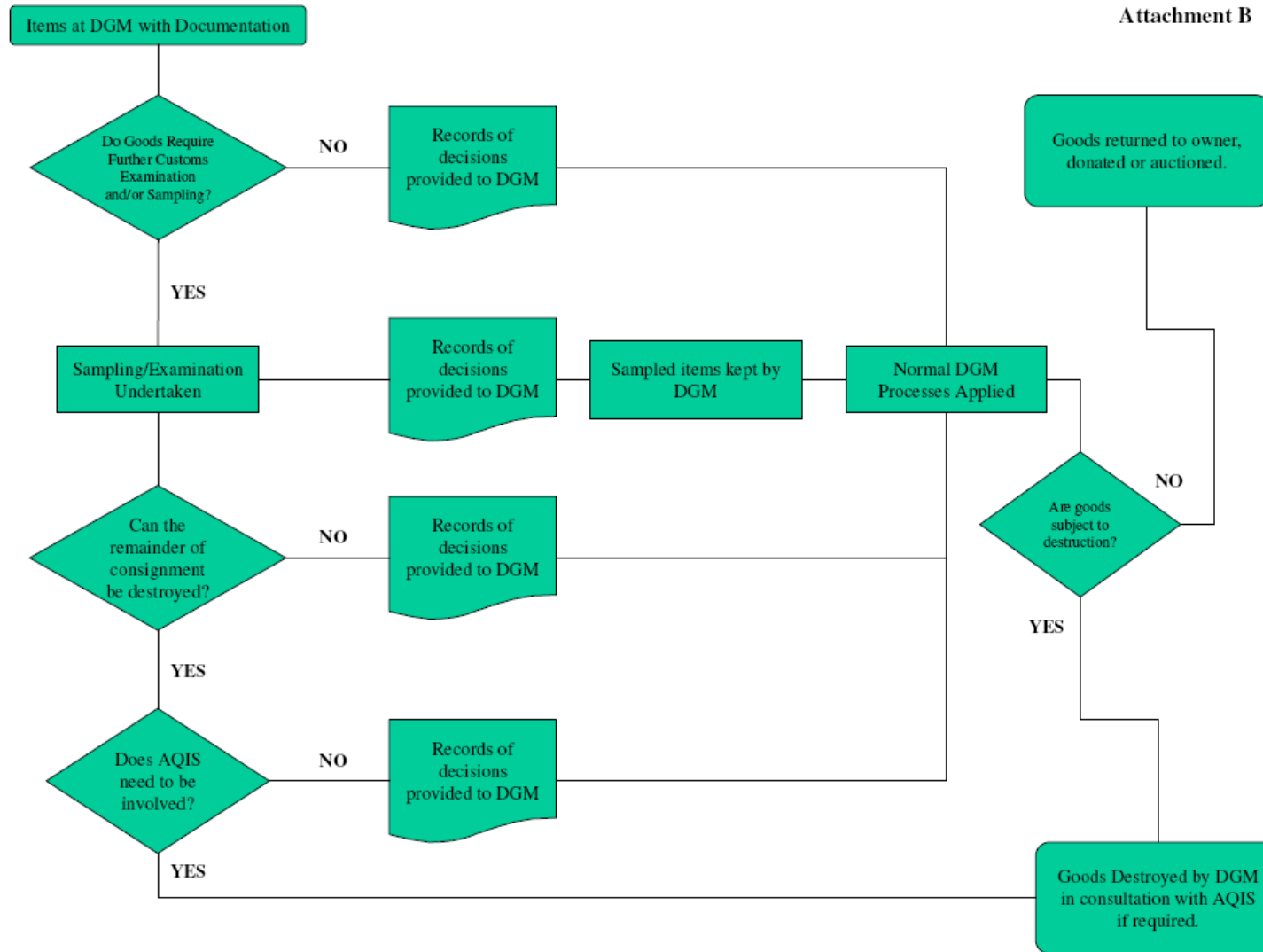
External

- Australian Government Solicitor
- AQIS

Approval

Approved on	10 December 2010	
By	Raelene Vivian National Director Cargo	
Review Period	Annually	







Australian Government
Australian Quarantine and Inspection Service

AQIS Referral List **(for all goods physically held by ACS)**

Food Items (processed and ingredients) – e.g. tinned food; dairy, egg, and meat products; frozen and packaged food items.

Tobacco – e.g. raw and un-processed tobacco including: shredded tobacco, counterfeit or large quantities (more than 15 cartons or 300 sticks) of commercially prepared and packaged cigars and cigarettes.

Plant Products - e.g. furniture; articles made from or containing wood; items made from or containing, straw, leaf, seed; woven baskets; Thai pillows; heat pillows.

Animal Products - e.g. any part of an insect, bird, reptile or other animal including its skin.

Seed – e.g. seed for sowing; heat pillows; stuffed balls and toys.

Animal/Pet Food – e.g. fish, cat, dog, reptile, bird or agricultural – fresh, dried, canned or as a supplement.

Soil – e.g. articles containing or contaminated by soil, potting mixes, soil samples.

Fresh, Dried or Frozen Fruit and Vegetables

Used Equipments – e.g. vehicles; agricultural tools; machinery; horse equipment; veterinary tools, sporting equipment.

Baits – e.g. baits and lures for aquatic animals.

Fertiliser – e.g. organic and chemical fertiliser; compost.

Biological Material – e.g. culture media; blood samples; tissue samples; serum; human tissue and fluids; animal tissue.

Timber Packaging and Dunnage – e.g. wooden pallets, dunnage, crates or packaging.