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Biosecurity (Varroa Mite) Emergency Order 2022 (No. 9)

under the

Biosecurity Act 2015

I, CHRIS ANDERSON, Deputy Chief Plant Protection Officer, with the delegated authority of the Secretary pursuant to section 379(1) of the *Biosecurity Act 2015* (**the Act**), make the following emergency order under Part 5 of the Act.

Dated this 7th day of July 2022

Time: 12:50 PM



CHRIS ANDERSON
Deputy Chief Plant Protection Officer
Department of Primary Industries
Department of Regional NSW

Part 1 Preliminary

1 Name of emergency order

This emergency order is the *Biosecurity (Varroa Mite) Emergency Order 2022 (No.9)*.

2 Commencement

This emergency order commences at the time a copy of the order is first published in the NSW Government Gazette or on the Department's website.

3 Duration of emergency order [s 45(e), s 48]

This emergency order has effect for a period of 6 months from the date of commencement.

4 Emergency zone [s 45(b), s 49]

- (1) The *Varroa mite eradication emergency zone*, as shown in red on the map, are the areas within a 10 kilometre radius of an infected premises.
- (2) The *Varroa mite surveillance emergency zone*, as shown in purple on the map, are the areas within a 25 kilometre radius of an infected premises, excluding the Varroa mite eradication emergency zone.
- (3) The *Varroa mite notification zone*, as shown in yellow on the map, are the areas within a 50 kilometre radius of an infected premises, excluding the Varroa mite eradication and surveillance emergency zones.
- (4) The *Varroa mite general emergency zone*, as shown in blue on the map, is the state of New South Wales, excluding the Varroa mite eradication, surveillance and notification emergency zones.
- (5) In this clause, *map* means the map published on the NSW Department of Primary Industries website at [Varroa mite emergency response \(nsw.gov.au\)](https://www.nsw.gov.au/varroa-mite-emergency-response) at the time this order commences.

Note: Schedule 1 to this Order contains a copy of the map and is included for information purposes only.

5 Biosecurity matter and biosecurity risk [s 44(1), s 45(a)]

- (1) The biosecurity matter which is the subject of the biosecurity emergency is Varroa mite.
- (2) The biosecurity risk that is the subject of the biosecurity emergency is the risk of an adverse effect on the economy and the community that arises from the introduction, presence and spread of Varroa mite within the State.

Note: A biosecurity emergency was declared by the *Biosecurity (Varroa Mite) Emergency Order 2022* dated 24 June 2022.

6 Grounds for Order [s 44(2)]

- (1) The basis for being satisfied that there is a current biosecurity risk arising from the presence of Varroa mite in the State, is:
 - (a) Varroa mite is prohibited matter throughout the State.
 - (b) On 22 June 2022, Varroa mite was detected at two properties in Mayfield and Mayfield West, City of Newcastle.
 - (c) Varroa mite has been detected at several properties in New South Wales, and it is suspected to be present at numerous other properties across New South Wales.
- (2) Varroa mite is spread by bees and hives that have been in contact with bees for the previous 10 days.
- (3) The basis for being satisfied that the biosecurity risk arising from the presence of Varroa mite in the State may have a significant biosecurity impact is that Varroa mite will have a significant economic impact on the beekeeping industry, which

will in turn will significantly impact pollination dependant industries and the production of horticulture in Australia.

7 Revocation of the Biosecurity (Varroa Mite) Emergency Order 2022 (No 2) [s 60(1)]

- (1) Except as provided by this clause, these emergency orders are revoked:
 - (a) *Biosecurity (Varroa Mite) Emergency Order 2022* dated 24 June 2022, published in the *NSW Government Gazette* No. 276 of Friday 24 June 2022 at pages 1 to 7, and
 - (b) *Biosecurity (Varroa Mite) Emergency Order 2022 (No.2)* dated 26 June 2022, published on the Department's website.
 - (c) *Biosecurity (Varroa Mite) Emergency Order 2022 (No.3)* dated 28 June 2022, published on the Department's website.
 - (d) *Biosecurity (Varroa Mite) Emergency Order 2022 (No.4)* dated 30 June 2022, published in the *NSW Government Gazette* No. 288 of 1 July 2022 at pages 1 to 10.
 - (e) *Biosecurity (Varroa Mite) Emergency Order 2022 (No.5)* dated 2 July 2022, published in the *NSW Government Gazette* No. 290 of 2 July 2022 at pages 1 to 11.
 - (f) *Biosecurity (Varroa Mite) Emergency Order 2022 (No.6)* dated 3 July 2022, published in the *NSW Government Gazette* No. 291 of 3 July 2022 at pages 1 to 11.
 - (g) *Biosecurity (Varroa Mite) Emergency Order 2022 (No. 7)* dated 4 July 2022, published in the *NSW Government Gazette* No. 293 of 4 July 2022 at pages 1 to 11.
 - (h) *Biosecurity (Varroa Mite) Emergency Order 2022 (No. 8)* dated 5 July 2022, published in the *NSW Government Gazette* No. 294 of 5 July 2022 at pages 1 to 11.
- (2) Clause 5(1) of the *Biosecurity (Varroa Mite) Emergency Order 2022* dated 24 June 2022 is not revoked.

8 Definitions

In this emergency order:

apiary equipment means anything that has been used or is designed to be used in relation to the acquisition or keeping of bees or in relation to the processing, handling or storing of apiary products, but does not include:

- (a) a hive,
- (b) a bee feeder,
- (c) an intermediate bulk carrier,
- (d) a honey drum,
- (e) a pail,

- (f) new apiary equipment that has never been in contact with bees, or
- (g) apiary equipment that has been treated using the irradiation treatment method and has not had contact with bees since that treatment.

Note: *hive* and *permitted bee feeder* are separately defined.

apiary product means anything produced by bees and includes pollen collected by bees, but does not include:

- (a) honey that has been processed,
- (b) rendered beeswax, or
- (c) new beeswax foundation.

bee has the same meaning as in the Act.

feral bees mean bees in the wild that have returned to a wild state.

hive means an artificial receptacle designed for housing living bees and its contents, but does not include:

- (a) a new hive that has never been in contact with bees, or
- (b) a hive that has been treated using the irradiation treatment method and has not had contact with bees since that treatment.

honey drum means a drum used for mass handling, transport and storage of up to 300 litres of honey.

infected premises are premises where a mite species of the genus *Varroa* has been detected by either:

- (a) being observed by a person who is a technical expert, or a person who has undergone training by a technical expert in the field of identification of *Varroa* mite; or
- (b) diagnostic samples from a site have been received at a Department laboratory and confirmed positive by a diagnostician.

intermediate bulk container means an industrial-grade container engineered for the mass handling, transport and storage of up to 1000 litres of honey.

irradiation treatment method means treatment by irradiation at a gamma radiation dose of at least 10 kilo Gray.

new beeswax foundation means a flat sheet of beeswax that is embossed with the shape of the base of the cell, either manufacture by casting or rolling, and from which any impurities have been removed including any *Varroa* mite potentially present and, has not been in contact with bees after its manufacture.

pail means a container with a capacity of up to 25 kilograms, intended to be used for mass handling, transport and storage of honey.

permitted bee feeder means a device for feeding bees attached to a hive and that can only be accessed from inside that hive, by the bees living in that hive. Permitted bee feeders must either:

- (a) be new; or

(b) have not been in contact with bees for 10 consecutive days.

Note: Sugar and sugar syrup left in the open for bees to access from other than a hive is not a permitted bee feeder.

person in charge, in relation to premises, an animal or thing includes:

- (a) the owner of the premises, animal or thing,
- (b) a person who has the premises, animal or thing in their possession, care, custody or control.

processed, for honey, means:

- (a) honey that is for human consumption and suitable for retail sale or purchase at a food business, as defined in section 6, *Food Act 2003*,
- (b) honey in an intermediate bulk container,
- (c) honey in a honey drums,
- (d) honey in a pail, and
- (e) any other honey that has been processed and packaged in such a way as to exclude Varroa mite.

rendered beeswax means raw beeswax that has been rendered using water and strained and from which any impurities have been removed including any Varroa mite potentially present and, has not been in contact with bees after its manufacture.

surveillance action means any of the following:

- (a) shaking bees in fine sugar to enable the dislodgement of Varroa mite so to be able to detect the presence of Varroa mite (**sugar shake**),
- (b) uncapping the bee brood to inspect the brood for the presence of Varroa mite (**brood uncapping**), or
- (c) washing bees in ethanol to detach varroa mites to inspect for the presence of Varroa mite (**ethanol washing**).

the Act means the *Biosecurity Act 2015*.

Varroa mite means *Varroa destructor*.

Varroa mite general emergency zone – see clause 4.

Varroa mite eradication emergency zone – see clause 4.

Varroa mite surveillance emergency zone – see clause 4.

Varroa mite notification emergency zone – see clause 4.

Part 2 Emergency Measures – All emergency zones

9 Persons or class of persons to whom the measures in this Part apply [s 45(d)]

- (1) All persons in these emergency zones must comply with and implement the emergency measures specified in this Part:
 - (a) Varroa mite general emergency zone,

- (b) Varroa mite eradication emergency zone,
 - (c) Varroa mite surveillance emergency zone, and
 - (d) Varroa mite notification emergency zone.
- (2) If this Part specifies that another person or class of persons must comply with and implement an emergency measure, then the measure only applies to that person or class of person.

10 Prohibitions on movement [s 50, s 51c]

- (1) A person must not move a bee or bees into, out of or within the Varroa mite general emergency zone, Varroa mite eradication emergency zone, Varroa mite surveillance emergency zone or Varroa mite notification emergency zone, unless the movement is permitted elsewhere in this order.
- (2) A person may move bees to undertake a surveillance action and the bees remain on the same premises.
- (3) A person may move bees for the purposes of disposal and destruction within a single premises, if directed to by an authorised officer.
- (4) A person must not move a hive or bee feeder into, out of or within the Varroa mite general emergency zone, Varroa mite eradication emergency zone, Varroa mite surveillance emergency zone or Varroa mite notification emergency zone.
- (5) A person may move a permitted bee feeder to and within a single premises, within the Varroa mite general emergency zone and the Varroa mite notification emergency zone, to feed bees.
- (6) A person may move hives or bee feeders within a single premises for disposal and destruction, if directed by an authorised officer.
- (7) An authorised officer can move hives or bee feeders for disposal and destruction, if the bees from the hive have been destroyed in accordance with clause 16(2).
- (8) A person in charge of premises must not permit another person to move a bee or bees onto those premises.
- (9) A person must not accept or receive a bee or bees that have been moved by another person.

11 Prohibition on tampering with bees [s 50, s 51(a)]

A person in an emergency zone to which this Part applies must not tamper, disturb, interfere with or feed bees, including by removing honey or honey comb from a hive, unless the person is:

- (a) directed to by an authorised officer,
- (b) undertaking a surveillance action, or

- (c) feeding bees using a permitted bee feeder within the Varroa mite general emergency zone and the Varroa mite notification emergency zone.

12 Testing and surveillance [s 50, s 51(a), (i), s 91(1)(a), s 122(1)(a)]

- (1) A person in charge of hives must not move, remove or interfere with any testing material or equipment placed in a hive by an authorised officer as part of surveillance for Varroa mite.
- (2) An authorised officer is authorised to move bees or a Varroa mite carrier for the purpose of undertaking diagnostic testing or any other testing.
- (3) An authorised officer is authorised to destroy bees in the process of undertaking testing that is a surveillance action.
- (4) In this clause, a *Varroa mite carrier* includes:
 - (a) bees,
 - (b) apiary equipment,
 - (c) an apiary product, and
 - (d) a hive.

Part 3 Emergency Measures - Varroa mite eradication emergency zone

13 Persons or class of persons to whom the measures in this Part apply [s 45(d)]

- (1) All persons in charge of bees, hives, apiary equipment or premises in the Varroa mite eradication emergency zone must comply with and implement the emergency measures specified in this Part.
- (2) If this Part specifies that another person or class of persons must comply with and implement an emergency measure, then the measure applies to that person or class of person.

14 Notification of bees [s 50, s 51(a)]

- (1) A person in charge of any bees must notify the Department of the location of those bees.
- (2) A person in charge of premises who becomes aware of a colony of feral bees which is located on the premises must notify the Department of the location that colony.
- (3) A person who becomes aware of, or suspects the presence of, a colony of feral bees because of any consultation or other professional work carried out at premises must notify the Department of the location of that colony.
- (4) Notifications under this clause must be made:
 - (a) by telephone, to the Exotic Plant Pest Hotline 1800 084 881, or

- (b) by electronic transmission, using a form at the location at www.dpi.nsw.gov.au/varroa

Note: Section 30 of the Act imposes a biosecurity duty on the owner or person in charge of an animal or thing to immediately notify the Department if the person suspects the presence of prohibited matter in the State.

Notifications may be made by telephone to the Exotic Plant Pest Hotline 1800 084 881.

15 Prohibitions on movement [s 50, s 51c]

A person must not move apiary equipment into or out of the Varroa mite eradication emergency zone, unless the person is undertaking a surveillance action and the bees remain on the same premises.

16 Destruction of bees and hives [s 50, s 51(l), s 55(l), s 91(1)(a), s 122(1)(a)]

- (1) A person to whom this Part applies must make the bees and any hive of which they have care, custody or control available for destruction and removal by an authorised officer for the purposes of disposal and eradication.
- (2) An authorised officer is authorised to destroy the bees and a hive by:
 - (a) euthanising the bees,
 - (b) making the dead hive bee-proof,
 - (c) cleaning the location of the hive at the premises to remove the dead bees and any apiary products,
 - (d) burning or destroying the hive at the premises or at other premises for burning or destruction at another location, and
 - (e) any other destruction, disposal or eradication functions necessary to eradicate all hosts of Varroa mite and to prevent the survival of undetected hosts within the emergency zone.

17 Fipronil Baiting [s 50, s 51(e), (l), s 91(1)(a), s 122(1)(a)]

- (1) An authorised officer may place fipronil baits on any premises in the Varroa mite eradication zone.
- (2) The fipronil baits must be used in accordance with all Australian Pesticides and Veterinary Medicines Authority label directions and permit conditions.

Note: Access to residential premises for the purpose of this measure is governed by the Act.

Part 4 Emergency Measures – Varroa mite surveillance emergency zone

18 Persons or class of persons to whom the measures in this Part apply [s 45(d)]

- (1) All persons in charge of bees, hives, apiary equipment or premises in the Varroa mite surveillance emergency zone must comply with and implement the emergency measures specified in this Part.
- (2) If this Part specifies that another person or class of persons must comply with and implement an emergency measure, then the measure applies to that person or class of person.

19 Notification of bees [s 50, s 51(a)]

- (1) A person in charge of any bees must notify the Department of the location of those bees.
- (2) A person in charge of premises who becomes aware of a colony of feral bees which is located on the premises must notify the Department of the location that colony.
- (3) A person who becomes aware of, or suspects the presence of, a colony of feral bees because of any consultation or other professional work carried out at premises must notify the Department of the location of that colony.
- (4) Notifications under this clause must be made:
 - (a) by telephone, to the Exotic Plant Pest Hotline 1800 084 881, or
 - (b) by electronic transmission, using a form at the location at www.dpi.nsw.gov.au/varroa

Note: Section 30 of the Act imposes a biosecurity duty on the owner or person in charge of an animal or thing to immediately notify the Department if the person suspects the presence of prohibited matter in the State.

Notifications may be made by telephone to the Exotic Plant Pest Hotline 1800 084 881.

20 Prohibitions on movement [s 50, s 51c)]

A person must not move apiary equipment into or out of the Varroa mite surveillance emergency zone, unless the person is undertaking a surveillance action and the bees remain on the same premises.

21 Fipronil Baiting [s 50, s 51(e), (l), s 91(1)(a), s 122(1)(a)]

- 1) An authorised officer may place fipronil baits on any premises in the Varroa mite surveillance zone.
- 2) The fipronil baits must be used in accordance with all Australian Pesticides and Veterinary Medicines Authority label directions and permit conditions.

Note: Access to residential premises for the purpose of this measure is governed by the Act.

Part 5 Emergency Measures – Varroa mite notification emergency zone

22 Persons or class of persons to whom the measures in this Part apply [s 45(d)]

- (1) All persons in charge of bees, hives or premises in the Varroa mite eradication emergency zone must comply with and implement the emergency measures specified in this Part.
- (2) If this Part specifies that another person or class of persons must comply with and implement an emergency measure, then the measure applies to that person or class of person.

23 Notification of bees [s 50, s 51(a)]

- (1) A person in charge of any bees must notify the Department of the location of those bees.
- (2) A person in charge of premises who becomes aware of a colony of feral bees which is located on the premises must notify the Department of the location that colony.
- (3) A person who becomes aware of, or suspects the presence of, a colony of feral bees because of any consultation or other professional work carried out at premises must notify the Department of the location of that colony.
- (4) Notifications under this clause must be made:
 - (a) by telephone, to the Exotic Plant Pest Hotline 1800 084 881, or
 - (b) by electronic transmission, using a form at the location www.dpi.nsw.gov.au.

Note: Section 30 of the Act imposes a biosecurity duty on the owner or person in charge of an animal or thing to immediately notify the Department if the person suspects the presence of prohibited matter in the State.

Notifications may be made by telephone to the Exotic Plant Pest Hotline 1800 084 881.

Schedule 1 – Emergency Zones

