

# Summary of Submissions:

## Report on the American Foulbrood National Pest Management Strategy

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The original submissions in response to the *Report on the American Foulbrood National Pest Management Strategy* are available on the MAF website at:

<http://www.biosecurity.govt.nz/biosec/consult/archive>

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# 1 Purpose of this document

## 1.1 CONTEXT

The American foulbrood National Pest Management Strategy (the Strategy) is a programme developed to eliminate American foulbrood in managed colonies (i.e. beehives) in New Zealand. American foulbrood is controlled through this National Strategy under the Biosecurity Act 1993, which primarily involves setting best practice methods to avoid the spread of the disease to other hives. The Strategy provides regulatory powers required for its effective implementation.

## 1.2 UPDATE

The Ministry of Agriculture (MAF) released the discussion paper *Report on the American Foulbrood National Pest Management Strategy* for public consultation in September 2008. The purpose of the discussion paper was to seek feedback from individuals and organisations with an interest in American foulbrood control and the beekeeping industry.

As part of the consultation process, MAF asked for feedback on various aspects of the Strategy including:

- Governance;
- Strategy Funding;
- Strategy Effectiveness;
- The proposed changes to the Strategy.

This document, *Summary of Submissions: Report on the American Foulbrood National Pest Management Strategy*, examines the 26 submissions MAF received on the original consultation document, and addresses the issues generated by the submission process.

A separate document, *Submissions on the American Foulbrood National Pest Management Strategy*, contains full copies of all submissions received. This is available from the address below, or can be viewed on the MAF website.

## 1.3 NEXT STEPS

MAF invites further submissions from individuals and organisations with an interest in American foulbrood control, and the beekeeping industry.

As part of this consultation process, MAF is seeking your feedback on two additional issues that were not discussed in the original consultation document:

1. Strategy Funding – timing of levy
2. Clause 8 – Powers used to implement Strategy

These questions can be found at: <http://www.biosecurity.govt.nz/biosec/consult/archive>

Please note that MAF has limited ability to consider comments provided on issues other than the ones listed above.

Also note that submissions may be subject to requests for information under the Official Information Act 1992 (OIA). Under the OIA, submissions must be made available to requesters unless there are sufficient grounds for withholding them, as set out in the OIA.

If you consider that any or all of the information in your submission should be treated as confidential or commercially sensitive, please state this clearly in your submission. Any decision to withhold information under the Official Information Act may be reviewed by the Ombudsman.

## 2 Introduction

American foulbrood is a serious disease of bees. Since 1998, American foulbrood has been managed by the beekeeping industry via a National Pest Management Strategy (the Strategy). This Strategy was due to expire on 30 September 2008. As a review had been notified prior to then, the Strategy remains in force until completion of the review.

In September 2008, the Ministry of Agriculture and Forestry (MAF) released a discussion document entitled *Report on the American Foulbrood National Pest Management Strategy* (discussion paper no: 2008/07) and invited submissions on its proposed changes to the Strategy.

This document assessed the Order in Council<sup>1</sup> that underpins the Strategy, and suggested a number of changes. It also invited submissions from individuals and organisations with an interest in American foulbrood control and the beekeeping industry.

MAF received twenty-six submissions on the discussion document.

## 3 Executive Summary of Submissions Received

Overall, the majority of submitters considered there are benefits in having a Pest Management Strategy to eliminate to American foulbrood in New Zealand. All submitters provided a range of suggestions regarding the current practicability of the Strategy. MAF has considered these accordingly.

The most common concern with the current Strategy is that it is overly complex and confusing, and too focused on administration rather than the practical aspects of disease control.

A large number of submitters were concerned with the lack of enforcement against beekeepers that have breached the Strategy's regulations, saying that this undermines the success of the Strategy. Many felt that MAF has failed to support the National Beekeepers' Association (NBA) by not carrying out prosecutions under section 154q of the Biosecurity Act.

Of the twenty submitters who expressed a specific view on the governance of the Strategy, half favoured the NBA continuing as the management agency, while just over a third would prefer an industry-wide governance board.

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<sup>1</sup> Orders in Council are regulations or legislative orders in relation to and authorised by an existing Act of Parliament.

## 4 Key issues and proposed amendments to American Foulbrood Strategy

The following section is a brief summary of MAF responses to key issues raised by submitters. A full summary of submissions along with the full response from MAF is provided in section 5 of this document.

### Clause 5 – Objectives of Strategy

#### *Primary Objectives*

The primary objective during the first ten-year term of the American Foulbrood National Pest Management Strategy was to reduce the prevalence of American foulbrood in managed colonies by an average of 10 percent each year.

MAF recommends:

- the prevalence target is amended to a 5 percent reduction per year;
- adding a new sub-clause is added called “Principle Measures” this would include a list of respective obligations of both the management agency and the beekeeper in general term

#### *Secondary Objectives*

MAF recommends a new secondary objective be added to the Strategy explicitly recognising the role of the pest management strategy in educating beekeepers in American foulbrood identification and management.

### Clause 8 – Powers used to implement Strategy

MAF suggests that the Strategy gain the power to declare controlled areas under section 131 of the Biosecurity Act. This would permit the establishment of regional zones based on American foulbrood levels. There are risks that beekeepers could seek to use these restrictions inappropriately.

Because this issue was not included in MAF’s 2008 review document, MAF is seeking beekeeper feedback on this suggestion.

### Clause 14 – Restrictions on use of drugs

MAF notes that there is no consensus among submitters on this point. MAF proposes that industry consider an alternative response plan in the case of a European Foulbrood incursion as it is outside the scope of this document.

### Clause 17 – Place may be notified as an apiary

MAF recommends that beekeepers be allowed to submit either GPS co-ordinates or map grid references when registering apiaries. AsureQuality has converted all submitted references to a standard code. At present, over 98 percent of all apiaries have geographic co-ordinates.

### Clause 18 – Seasonal apiaries

In MAF’s view there is no need to change current the registration requirements for “seasonal apiaries” as the benefits to the Strategy would not outweigh the cost to beekeepers or the management agency for monitoring short term hive placements.

### Clause 23 – Register of apiaries

MAF does not recommend significant changes to the clause that underpins the apiary register. MAF supports the management agency in its attempts to increase the ability of beekeepers to access and modify the register on-line. MAF recommends that a Memorandum of Understanding be drawn up between funders of the register that will clarify ownership, access, funding and use.

### Clause 25 – Destruction of beehives posing risk

MAF recommends simplifying the processes the management agency must follow before taking action against unregistered hives. This includes removing the need to place public notices in a local newspaper and the industry journal.

MAF recommends that clause 25 is separated into two parts, which provides the management agency with the option and authority to:

- destroy unregistered hives, where an inspector has given the appropriate notice to act within 30 days, and the owner of the hives has not been identified. This will not impose an obligation on the management agency to destroy unregistered hives, but provides the power for them to do so.
- destroy infected unregistered hives within seven days of finding the hives, after taking reasonable steps to identify the owners.

MAF also recommends adding a new sub-clause (25A) – this will clarify the powers of the management agency to destroy infected registered hives, where the owner has been given notice to take action and has not done so.

### Clause 26 – Notification of American foulbrood

MAF recommends that the requirement remains unchanged to report all cases of American foulbrood infections within seven days.

While this is an operational matter for the management agency, MAF believes that an online reporting function for the apiary register will improve the ease of reporting and encourage better compliance.

### Clause 27 – Annual Disease Return

MAF recommends that the management agency consider amending the levy calculation date, and the date levies are due, to ensure that levies are based on up-to-date and accurate information.

Because this issue was not included in MAF's 2008 review document, MAF is seeking beekeeper feedback on this suggestion.

### Clause 32 – Certificate of Inspection

MAF recommends that no amendments be made to this clause at present. The management agency has proposed a number of measures to improve Certificate of Inspection (CoI) compliance, including:

- Improving the quality and accessibility of information/ resources to CoI holders.
- Making available a list of beekeepers who are accredited to sign off Certificates of Inspection.
- Better follow-up with beekeepers who do not submit a completed CoI.

#### **Clause 36 – Certificate of Inspection exemption**

MAF recommends that this clause remains the same, but notes the change below.

#### **Clause 37 – Disease Elimination Conformity Agreement**

MAF recommends that this clause be amended so that only beekeepers who have passed a recognised course in American foulbrood identification can be given a DECA .

#### **Clause 39 – Review of Certificate of Inspection Exemption**

MAF recommends changing this clause to remove the requirement for the management agency to review all CoI exemptions annually, as the resources required are excessive. The management agency could instead review the CoI of beekeepers with high American foulbrood levels.

#### **Clause 40 – Inspections and audits**

MAF recommends rewording this clause, as proposed in the original discussion paper, to allow the management agency to better target regions or beekeepers with high American foulbrood levels.

## 5 Summary of Submissions on the Report on the American Foulbrood National Pest Management Strategy

### 5.1 GOVERNANCE

The National Beekeepers' Association of New Zealand is the management agency responsible for implementing the activities in the Order in Council that makes the strategy, and the related Biosecurity Levy order. This includes collecting and administering levies, developing annual plans, organising the mail-out of documents to all beekeepers and collating the material subsequently returned, and keeping a registering of apiaries.

The management agency has a regional structure of 11 branches and an executive council headed by an elected president.

#### Submissions

Six submitters did not indicate a clear preference regarding governance of the Strategy.

Ten submitters supported the NBA continuing as the management agency; two submitted that to change the management agency would increase costs to levy payers. Three submitters indicated that they would prefer the NBA to adopt a smaller governance board, and two felt that the NBA should open itself to greater industry representation, with one of the two stating that the NBA should only remain as the management agency as long as it could work together with Federated Farmers.

Seven submitters favoured the establishment of an industry-wide governance board. Three specified that this board should also include hobbyist representation; one suggested that the Minister should appoint the board; and another submitted that the new board should be modelled on the South Island Varroa management agency.

In addition, one submitter questioned whether it was appropriate to have industry members running the management agency, as they would effectively be policing their own colleagues. One submitter proposed saving money by contracting out all management functions of the Strategy, and a further submitter called for neither industry group to be the management agency, suggesting that the Strategy be scrapped altogether.

One submitter expressed extreme concern that the Strategy was not reviewed after five years, as required by the Biosecurity Act. The submitter considered that because of this, the Strategy has been null and void since 2003 and therefore unenforceable and the management agency should be legally unable to collect and spend levies.

#### MAF response:

There is no consensus among submitters as to what body should act as the management agency, although more submitters supported the NBA than any other single option. No other industry organisation has expressed interest in becoming management agency for the Strategy. MAF therefore recommends that the NBA remain as the management agency for the Strategy.

MAF does not have the authority to determine how the NBA is organised and cannot (and does not wish to) impose an internal restructure via Order in Council. However, MAF

notes that a representative from Federated Farmers Bee Group has been a member of the management agency since 2008. This addresses a concern raised by several submitters.

MAF encourages the NBA to allow a full range of industry members to be eligible to serve on the management agency. Given the small size of the bee industry, it is important that the full range of available expertise is utilised.

## 5.2 STRATEGY FUNDING

The Strategy is currently funded by a levy on apiaries imposed under the Biosecurity Act. The levy order imposes a base levy fixed at \$20 per beekeeper, and an apiary levy that can be varied by the management agency; up to a maximum of \$15.17 per apiary (all figures GST-exclusive) The most recent levy payment was at a rate of \$11.00/ apiary. Beekeepers with fewer than 11 hives and fewer than four apiaries are charged for only one apiary. Therefore the minimum paid by a registered beekeeper was \$31.00 or \$35 including GST.

### Submissions

Five submitters did not indicate a clear preference regarding the Strategy's funding. Four submitters suggested that there should be a different levy system for hobbyist beekeepers – three considered that there should be *no* charge for hobbyists; with one of the three explaining that this would encourage more hobby beekeepers to register. Another submitter suggested the management agency conduct a study on the cost of gathering levies from hobbyist beekeepers, to find out if it actually costs more than it returns.

Five submitters suggested that beekeepers be charged per hive, not per apiary or block, as this would be fairer to hobbyists. One Submitter suggested the contrary to this.

Four submitters pointed out that the amount of funding would increase if all beekeepers were persuaded, through enforcement, to register and submit all documentation on time. One submitter also considered that levy increases would be supported by beekeepers, as long as the money went directly to controlling disease, and not administration costs.

Three submitters wanted to raise the levy amounts. Two of three submitters suggested that the base levy be raised to \$30 and the maximum apiary levy to \$25. The other submitter suggested the base levy be raised to \$30, but also felt that the current level of funding was appropriate.

Four submitters felt that more funding was *definitely* not needed, suggesting that savings could be made or funds redirected within the programme to where they are more effective.

One submitter also considered that inspector should be paid a fair market rate for their work, as the amount they are paid now does not make it worth their time to carry out inspections.

### MAF response:

There is no consensus in submissions about funding the Strategy. MAF therefore does not recommend any changes to the existing levy system.

MAF notes that the question of whether to charge levies on a per-hive or per-apiary basis has been ongoing debate for many years in the beekeeping industry. Both systems have pros and cons, and MAF does not think there is sufficient reason to change the existing system.

A number of submitters have suggested changing the way levies are collected from hobby beekeepers, generally with an objective of lowering the levies paid by hobbyists. As of May 2010, there are approximately 2100 beekeepers with 1-10 hives. If all of these beekeepers paid the base levy of \$20 and the cost of a single apiary (\$11.00), they would contribute \$65,100 to the cost of the Strategy. This makes up 35 percent of Strategy funding, and the Strategy could not continue in its current form in the absence of this funding.

MAF suggests a review of the way strategy costs are allocated between different beekeeping groups should be undertaken by the management agency and the wider beekeeping community. It is unlikely that the approximately 800 beekeepers who own more than 10 hives each would be willing or able to meet the full costs of AFB control for the 2100 beekeepers with fewer than 10 hives each. However, there should be some relationship between Strategy costs and contributions per sector.

At present, hobby beekeepers pay far more than commercial beekeepers on a per-hive basis. However, significant management agency costs (e.g. mailouts) are incurred irrespective of the number of apiaries owned by a beekeeper, and it does not seem unreasonable that these costs should be met directly by the beekeepers concerned.

### Timing of Levy

At present, the levy is calculated based on the number of apiaries registered by a beekeeper as of 31 March. Most beekeepers comprehensively update their apiary details in their Annual Disease Return, which must be submitted by 1 June each year. Many beekeepers fail to update the management agency of changes to apiary number through the year, despite a legal requirement to do so. This results in the levy being calculated on information that is nine months old.

MAF wishes to examine the costs and benefits to beekeepers and the Strategy of changing the levy calculation date to coincide with or follow closely after the Annual Disease Return due date. This would require a change in the Biosecurity Levy Order.

MAF notes that making it possible for beekeepers to directly update their own details on the apiary register may improve the year-round accuracy of this information, reducing the benefits of a change.

## 5.3 STRATEGY EFFECTIVENESS

Submitters gave a wide range of reasons for the current strategy not having achieved its targets, and many suggestions for improvement.

Many submitters felt that the Strategy is too complicated, and that many beekeepers do not understand their obligations. These submitters would like to see it become more user-friendly. Specific solutions suggested included:

- Less formalities and legal requirements.
- Establish an organisation that covers all beekeeping and American foulbrood Pest Management Strategy related information.
- Publish a list, on the management agency's website, of approved beekeepers that are willing to carry out inspections for Certificates of Inspection, including the Certificate of Inspection form.

- Simplify and provide a guidance documents for the Certificate of inspection and Annual Disease Return forms.

Many submitters suggested that there be more operational work done with beekeepers, directly assisting them to control disease as opposed to focusing on paperwork. Four submitters suggested that Apiary Officers, or similar, be appointed to work with beekeepers and carry out challenging parts of the strategy.

Two submitters also suggested that the Strategy should provide declarations for ‘areas of freedom’ from American foulbrood, for such regions as South Otago and Great Barrier Island.

#### MAF response:

MAF notes that most of the suggestions above are operational issues, and the management agency is already addressing many of these. Additional comments regarding the comments above are addressed in later sections of this document.

## 5.4 ENFORCEMENT

A large number of submitters considered that MAF’s unwillingness to carry out prosecutions or any enforcement work under section 154q of the Biosecurity Act has undermined the work of the strategy, as there has been no deterrent for non-compliance. The management agency’s submission also discussed problems it has encountered when considering carrying out enforcement under section 154q itself.

#### MAF response:

MAF notes that the enforcement function of the Strategy is constrained by the powers in the Biosecurity Act 1993, which can be exercised by the management agency or authorised persons. For example, the power to issue instant fines cannot be delegated to a management agency, and this is unlikely to change in the future.

A range of proposals are being considered in the review of the AFB strategy to improve compliance and also assist the management agency in carrying out its functions more effectively. Prosecution is only one tool to ensure compliance and usually the tool of last resort.

The management agency has already made considerable gains in compliance in some areas, without using extra legal powers. These include:

- improving Annual Disease Return rates to 96 percent (from a 10-year average of under 80 percent), and;
- improving Certificates of Inspection compliance from around 30 percent to 60 percent in a single season, and designing further measures to increase compliance

Other operational measures that are likely to improve compliance without additional enforcement provisions are:

- allowing beekeepers to submit Annual Disease Returns online,
- introducing an online reporting function for beekeepers to report cases of AFB
- better follow-up with beekeepers who do not carry out strategy obligations, and;
- operational changes such as improving the quality and accessibility of information and resources.

MAF is also recommending some changes to the Strategy to improve compliance. These changes include:

- making it easier for the management agency to destroy unregistered hives which are infected with AFB (see proposed changes to clause 25),
- making it an obligation for authorised persons to report AFB infections to the management agency in addition to the hive owner (see proposed changes to clause 34),
- beekeepers being required to pass an AFB recognition test before they can receive with a DECA and;
- allowing the management agency more scope to target beekeepers and areas with high levels of AFB rather than carry out random sampling (see proposed changes to clause 40).

If these measures do not bring about adequate compliance, measures that are more significant can be considered after the proposed changes have occurred.

## 6 Summary of the Proposed changes to the Strategy

The legal basis for any pest management strategy is the Order in Council – a legal document signed by the Governor General and laid before Parliament. The remainder of this document responds to clause-by-clause comments on the American foulbrood NPMS Order in Council.

### Clause 1 – Title and commencement

Three submitters suggested that the new Strategy should be reviewed *before* it has expired.

#### MAF response:

MAF notes this view.

### Clause 2 – Interpretation

Three specific suggestions were received on this clause:

- “‘Honey Bee’ means *Apis mellifera*” should be changed to *Apis* sp.
- There needs to be a definition for 'abandoned' hives. Also, there may be a need to define “beehive” and “bee colony”.
- The definition of “beehive” should also exclude mating tubes or packages.

#### MAF response:

MAF notes that the only *Apis* species known to be present in New Zealand is *Apis mellifera*. MAF does not consider it necessary for the Strategy to set out disease management requirements for other species, nor is it known that the measures appropriate to *Apis mellifera* are suitable for other *Apis* species.

MAF has considered defining “neglected” or “abandoned” hives. “Neglected” is a subjective term, and it is difficult to create a robust legal definition.

“Abandoned” hives is also difficult to define. A reasonable definition of “abandoned” would describe hives that are no longer being managed or cared for by their owner. This can be difficult to determine without repeated visits. Even skilled and motivated commercial beekeepers can have apiaries badly damaged by livestock or vandalism, and in some instances not be able to repair the damage for a matter of months. It would be unreasonable to define these hives as “abandoned”, although their appearance might suggest this. On the other hand, a backyard hive that has not been opened for many years may well be “abandoned”, but show no obvious signs of neglect.

Rather than attempt to define these terms, MAF recommends strengthening the powers of the management agency to deal with unregistered hives, and against hives where the owner has failed to comply with instructions to deal with American foulbrood infected hives.

MAF agrees that package bees should be exempted from the definition of “beehive”, as they are a temporary storage and transport mechanism, akin to a queen cage.

MAF does not accept that “mating tubes” should be excluded from the definition of beehive, unless all mating nucs were to be similarly excluded. MAF does not support this suggestion.

### Clause 3 – National American Foulbrood Pest Management Strategy

No specific comments were received on this clause.

## Clause 4 – Pest

Two submitters agreed with the proposed change mentioned in the discussion document. No other specific comments on this clause were received.

## Clause 5 – Objectives of Strategy

### *Primary Objective*

Five submitters suggested that the primary objective should be to eradicate American foulbrood from New Zealand completely. Three of the five also suggested that an additional objective to eliminate all abandoned and neglected hives be added. One of the five submitters felt that the objectives as currently worded, does not clearly express that the Strategy is the responsibility of the beekeeper (as the management agency's role is to *facilitate* the Strategy), and it is suggested that the objectives be rewritten to make this clearer.

Four submitters considered that the primary objective should remain the same. Two of the four submitters also considered that the *ultimate* objective of the Strategy is to eliminate American foulbrood from New Zealand.

One submitter suggested that the primary objective should be to maintain the reported incidence of American foulbrood at 0.25 percent, rather than the current 0.1 percent, as this would be cheaper. Another submitter considered that the primary objective of the Strategy should be “to reduce the cost of American foulbrood to beekeepers”, to ensure that the Strategy's costs do not exceed the benefits it delivers.

### **MAF response:**

The primary objective during the first ten-year term of the American foulbrood National Pest Management Strategy was to reduce the prevalence rate of American foulbrood in managed colonies by an average of 10 percent each year. This was not achieved.

MAF acknowledges the comments above and notes that complete elimination of American foulbrood within the proposed five-year term of the Strategy is unfeasible. MAF recommends an amendment to the prevalence target of a 5 percent per year reduction rate. This is more achievable than the previous target, but retains the focus on continuous reduction of American foulbrood levels.

MAF agrees that the wording of the roles and responsibilities between beekeepers and management agency should be better defined and proposes that a sub-clause is added called “Principle Measures” which would include a list of respective obligations of both the management agency and beekeepers in general terms.

MAF also agrees that there is a need to strengthen the ability of the management agency to manage the risks posed by unregistered or diseased hives.

### *Secondary Objectives*

Seven submitters felt that beekeepers needed a greater level of education, with six of these agreeing that a new secondary objective explicitly stating this should be added. Specific suggestions on education included providing information packs to all newly registered beekeepers and establishing Apiary Officers to work directly with beekeepers.

Four submitters also suggested that the Strategy focus more on beekeepers managing positive cases of American foulbrood, by using selective testing.

**MAF response:**

MAF acknowledges the concerns regarding the importance of educating beekeepers in American foulbrood recognition and management.

MAF recommends a new secondary objective be added to the Strategy explicitly recognising the role of the pest management strategy in educating beekeepers in American foulbrood identification and management.

**Clause 6 – Management agency**

Please refer to section 4.1 – *Governance* in relation to submissions and MAF’s response on this issue.

**Clause 7 – Term of Strategy**

Three submitters suggested the term of the Strategy should be 10 years. One submitter suggested that a shorter term would be too disruptive.

One submitter favoured a term of nine years, reviewed every three years. Three submitters preferred a term of three years, with the Minister able to intervene and cancel the Strategy if it were not working.

One submitter favoured an ongoing Strategy, to be reviewed every five years, another suggested a term of five years, with the ability to change or cancel the Strategy should any new disease or pest enter New Zealand.

**MAF response:**

MAF recommends that the Strategy continues for a period of five years. MAF considers that five years will give the management agency the opportunity to make further operational progress. In the event that the Strategy performs poorly over this period, more significant changes could be made in 2015.

**Clause 8 – Powers used to implement Strategy**

A number of specific suggestions were received on this clause.

Three submitters submitted that the Strategy cannot be successful if the powers required to implement that Strategy are not consistently applied.

One submitter would like to increase the number of Authorised Persons Level 1 (AP1s), and another considered that there is a need for the management agency to be able to declare a controlled area as per section 131 in the Biosecurity Act.

However, one submitter also cautioned that the existing powers of the Strategy might have been misinterpreted and misused in the past.

**MAF response:**

The Order in Council establishing the Strategy lists the Biosecurity Act powers that can be used by the management agency to implement the Strategy. The management agency is responsible for making decisions on the exercise of powers, but can only use powers referred to in the Order in Council.

Many submissions on this clause comment on the management agency's use of the existing powers, rather than whether these powers are appropriate and sufficient for the Strategy to be effective. This is an operational matter and cannot be addressed in an Order in Council.

The number of Authorised Persons appointed for a Strategy is not determined by the powers used to implement the Strategy.

MAF notes the suggestion that the Strategy gain the power to declare controlled areas under section 131 of the Biosecurity Act. This was raised in submissions, and subsequently a significant number of beekeepers have supported adding this power to the Strategy. It has been noted that the Bovine Tb Strategy has this power, and uses it to implement a nationwide zoning Strategy based on disease incidence.

Supporting beekeepers envisage the management agency being able to declare certain regions as being "AFB free" or "low AFB incidence", and imposing entry requirements on hives being moved into these zones. MAF accepts this could assist in the objective of reducing AFB levels, particularly if AFB levels continue to decline.

There is a risk that beekeepers could attempt to persuade the management agency to put in place controlled areas whose real intent is to exclude "outside" beekeepers, or prevent migratory beekeepers accessing a particular region. MAF would only support this power being added to the Strategy if it is convinced that the management agency is able to use controlled areas in an appropriate manner.

Declaring areas such as the Chatham Islands and Stewart Island to be "AFB free" or "low AFB incidence" areas cannot be done directly via the American foulbrood Order in Council. However, the management agency could impose restrictions of this nature if section 131 powers were added to the Strategy.

MAF is seeking further input from beekeepers on whether the management agency should be able to declare controlled areas under section 131 of the Biosecurity Act.

## Clause 9 – Strategy rules

No specific comments were received on this clause.

## Clause 10 – Obligation to supply information

One submitter suggested that this clause be expanded to apply to non-beekeeping members of the honey industry, such as honey processors and vendors of beekeeping equipment, to enable the management agency to better identify unregistered beekeepers. One submitter felt that section 4 of this clause, which states that any breach is an offence under section 154q of the Biosecurity Act, is not required.

### MAF response:

At present, an authorised person can require a beekeeper or landowner of a property where an apiary is located to supply information.

Under the Biosecurity Act, information can only be sought about pests and unwanted organisms. There is no legal requirement for those selling beekeeping equipment to record names and contact details of clients, or any obligation for buyers to supply this information. Therefore it is unlikely this clause could be amended to provide an effective way of identifying unregistered beekeepers.

Also, under the Privacy Act 1993, personal information should generally be collected directly from the individuals concerned rather than from a third party.

MAF considers that the reference to Section 154q in clause 4 should remain.

#### **Clause 11 – Obligations to keep honeybees in moveable-frame hives**

One submitter felt that section 3 of this clause, which states that any breach is an offence under section 154q of the Biosecurity Act, is not required. No other specific comments were received on this clause.

##### **MAF response:**

MAF considers that the reference to Section 154q in clause 3 should remain.

#### **Clause 12 – Exemption from obligation to keep honeybees in moveable-frame hives**

No specific comments were received on this clause.

#### **Clause 13 – Access to beehives**

Three submitters suggested that this clause should also include beehives not readily accessible because of being abandoned and neglected.

One submitter stated that section 154 of the Biosecurity Act has been of no use to the management agency, as it is effectively unenforceable, and another felt that section 2 of this clause, referring to section 154, should be removed.

##### **MAF response:**

MAF recommends that the reference to Section 154q in clause 2 and the requirement to maintain access to beehives should remain in the Strategy.

#### **Clause 14 – Restrictions on use of drugs**

##### *American Foulbrood*

Sixteen submitters did not submit any comments regarding this clause.

Four submitters favoured an absolute ban on the feeding of antibiotics.

Three other submitters considered that a general ban was appropriate, but that there may be exceptions: one of the three suggested that vet groups or Government agencies control any antibiotic use, and one stated that antibiotics should only be used in emergencies.

One submitter felt that an absolute ban on antibiotics was *not* appropriate, and another submitted that clause 14 would be of no use if other diseases arrived.

##### **MAF response:**

MAF notes that there is no consensus among submitters on this point. Therefore, MAF recommends that the prohibition on feeding drugs that might mask the symptoms of American foulbrood be maintained.

MAF notes that this is likely to restrict response options in the event of a European foulbrood incursion. MAF suggests that the beekeeping industry consider its preferred response to a European foulbrood incursion.

### *European Foulbrood*

Several submitters suggested that new research should be carried out to determine how other countries have dealt with European foulbrood incursions, to see what lessons could be learned for New Zealand.

Two submitters felt that a separate Strategy for European foulbrood is needed, as the American foulbrood Pest Management Strategy is not the appropriate place to address European foulbrood. One submitter suggested that, instead, clauses 15 to 40 be re-worded to apply to disease infiltration from other countries.

One submitter strongly felt that clause 14 of the American foulbrood Pest Management Strategy should allow for the immediate use of Teramycin should European foulbrood arrive; another submitter favoured the ban on antibiotics to remain even in the event of an European foulbrood incursion.

#### **MAF response:**

MAF proposes that industry consider developing a response plan in the case of a European Foulbrood incursion as it is outside the scope of this document.

This may be suitable for inclusion in a Government-Industry Agreement, if the beekeeping industry enters into such agreements with MAF.

#### **Clause 15 – Prohibition on keeping bees in place other than apiary**

Two submitters agreed with the discussion document's proposed change and no other specific comments were received on this clause.

#### **MAF response:**

MAF recommends that this clause be modified to remove an unneeded transitional provision, as suggested in the original discussion document above.

#### **Clause 16 – Transitional provision for notification of apiaries**

Two submitters agreed with the discussion document's proposed change and no other specific comments were received on this clause.

#### **MAF response:**

MAF agrees with submitters that this clause is no longer required, and recommends that this clause be deleted.

#### **Clause 17 – Place may be notified as an apiary**

Six submitters noted that a precise and accurate description of hive locations should be sufficient. One of the six submitters also stated that it can often be difficult to know who owns the land.

Another four submitters supported allowing GPS *or* topographical co-ordinates when describing the location of hives, with a further submitter suggesting that having all locations reported in GPS co-ordinates should be a 10-year goal.

Three submitters also suggested that in any apiary each hive must be within 50 metres of the next and be visible from the adjacent hive. This would prevent beekeepers from registering long stretches of hives as a single apiary.

#### **MAF response:**

The current strategy requires beekeepers to submit grid references using the now-outdated NZ 260-series maps. MAF wishes to encourage as many beekeepers as possible to provide GPS co-ordinates for their apiaries. In recent years,ASUREQuality (the contracted manager of the apiary register) has converted all submitted reference to a standard GPS reference. At present, over 98 percent of all apiaries have geographic co-ordinates. However, the management agency notes that during their last audit some of the geo-locations points were incorrect (by up to 130km).

MAF suggests that the preferable option is for beekeepers to submit an apiary location is via GPS co-ordinates but co-ordinates that have been converted into the NZTM 2000 format will still be accepted. MAF also recommends that during the next review of the Strategy, the mandatory use of GPS co-ordinates be considered.

MAF suggests that the Operational Plan for the Strategy has an objective of ensuring all apiaries on the database are geo-coded with the next five years.

At present, there can not be a gap of more than 200 metres between hives in the same apiary. Three submitters suggested this be reduced to 50m, to prevent beekeepers spreading hives at 200m intervals and registering them as a single apiary.

MAF recommends that this is changed a 100m maximum gap between hives.

#### **Clause 18 – Seasonal apiaries**

Three submitters suggested that the term ‘seasonal apiary’ should capture all sites where beehives are placed for *any* amount of time, rather than the current 30 days.

Another submitter suggested that a seasonal pollination code be included, so that hives that have been temporarily moved for pollination would be registered and locatable in the event of an outbreak.

#### **MAF response:**

The issue of pollination hives was debated at the time the AFB Strategy was originally developed. It was concluded that requiring beekeepers to notify the management agency of all pollination hive movements would impose a significant burden on beekeepers at their busiest time of the year, and would also require significant resources from the management agency.

While this data would be useful in the case of an exotic disease response, MAF questions whether it is feasible to collect it. Given the challenges in getting beekeepers to register their permanent sites promptly, attempting to get them to register short-term pollination sites is likely to be difficult.

In MAF’s view there is no need to change current wording of a ‘seasonal apiary’ as the benefits to the Strategy would not outweigh the cost to beekeepers or the management agency for monitoring short term hive placements.

#### **Clause 19 – Allocation of identification code**

No specific comments were received on this clause.

## Clause 20 – Marking of apiaries

One submitter agreed with the proposed change in the discussion document to remove clause 20(2)(b) which relate to the start-up of the Strategy and appears to no longer be needed.

Three submitters suggested that all apiaries should clearly be marked as such, even when there are no hives on the site.

Three submitters suggested that greater enforcement would assist in beekeepers fulfilling the requirement to register and mark their hives. Two of the three submitters suggested that New Zealand Food Safety Authority certification be linked to compliance, and another submitter favoured the idea of instant fines for unregistered or unmarked hives.

### MAF response:

MAF agrees with the option to remove clause 20(2)(b) which is now irrelevant to the Strategy.

MAF considers that additional marking of apiaries is not required and no further action is necessary.

MAF notes that export certification is based on the requirements of the importing country. MAF (which includes biosecurity and food safety functions) does not support imposing export certification requirements in excess of those required by trade partners, as a means of improving compliance with domestic disease control strategies.

MAF also notes that the Biosecurity Act 1993 does not currently provide for a management agency to be given the ability to impose instant fines and there is no plan to change legislation on this issue.

## Clause 21 – Removal of identification code

One submitter supported the proposed change in the discussion document, to get rid of the requirement to notify the management agency of removal of old identification codes.

All other submitters who commented on this clause felt that the requirement to completely remove old owners' markings was impractical and unnecessary, saying that as long as it is made clear what the new number is (for example, by crossing out old numbers), and beekeepers keep records of who they had bought the hive from, this should suffice. One submitter suggested that the proposed change to the clause should state that the beekeeper *should*, rather than *must*, remove old markings.

One submitter also suggested that any vendor selling equipment should be required to notify the management agency within 30 days.

### MAF response:

Submitter's comments are consistent with the discussion document proposed option that is: "Where a beekeeper transfer the ownership of a beehive marked with identification codes, the beekeeper must remove all the identification codes or alter all the identification codes in such a way as to make it clear that identification codes no longer apply to that beehive".

The submission regarding information from vendors of beekeeping equipment is addressed under Clause 10.

## Clause 22 – Use of marks similar to identification codes

No specific comments were received on this clause.

## Clause 23 – Register of apiaries

A wide range of opinions were received regarding to this clause.

Five submitters felt that any outside organisations should pay to get information from the database. Another submitter considered that the New Zealand Food Safety Authority should be allowed to use the Register for honey certification, as long as it contributed equally to its upkeep.

Five submitters supported allowing beekeepers to be able to view and update their own information online. However, four submitters also expressed concern with issues around privacy.

Three submitters felt that the register should be run by beekeepers, with one submitter suggesting that the register be expanded so that it covers all aspects of beekeeping. Two of the three submitters also considered that the information in the register should be restricted to only beekeepers that will allow their business to be safeguarded and ensure commercial sensitive information is confidential.

Three submitters felt that an alternate database, such as a future land-use database would be fine. However one submitter specified that any new database should remain under the management agency's control.

Two submitters considered that the register should be disestablished to cut costs. One submitter suggested replacing the register with a paper file the other submitter suggested that the requirement to register hives also be dispensed with.

One submitter strongly felt that the current management of the Apiary Register is not satisfactory, and suggested clarifying its ownership; while another felt that ownership does not matter.

Other comments and suggestions included:

- The information held on the Apiary Register should be available to anyone with a reasonable and non-commercial intent.
- The register could be used to alert beekeepers if neighbouring beekeepers are carrying out treatment for American foulbrood.
- Information about beekeepers' Disease Elimination Conformity Agreements could be noted on the Register, making it easier to follow up those who need to sit the recognition test.
- AsureQuality, the Ministry of Agriculture and Forestry and the management agency should all have equal access to the information stored on the Apiary Register.
- All parties who use the information should contribute to the upkeep of the Apiary Register.
- The overall cost of the Apiary Register should be kept to a minimum.

### MAF response:

MAF notes that most of the submissions address operational matters, and could be addressed without changing the Order in Council.

MAF recommends a minor change to this clause allowing the management agency to allow a third party to maintain a database on its behalf. This is because in future, it may be more cost-effective to integrate the information on the apiary database into a broader land-use database. This change would not prevent the management agency from maintaining a stand-alone apiary database for as long as it wished.

MAF also recommends that a *Memorandum of Understanding* (MOU) be created between MAF and the management agency to promote effective maintenance and access to the database for all of its users. The purpose of the MOU would be to clarify the following issues:

- The ownership of the register.
- Authority to access to the register .
- Rights to amend the register and who can make decisions regarding register management.
- Funding for maintenance of the register.

MAF notes the submissions supporting on-line access to the register, and is pleased to learn that the management agency and its contractorASUREQuality are in the process of testing on-line access to enable beekeepers to directly input changes into the register.

#### Clause 24 – Place ceasing to be apiary

Five submitters commented on this clause, all in which felt that apiaries should remain registered as such until the beekeeper de-registers it. Three submitters also suggested that any significant movement of hives should be notified to the management agency immediately, and that online reporting would be useful in this regard.

Another submitter suggested deleting sections 1 and 2, and adding a clause allowing beekeepers to maintain a schedule of their beehives' movements, if they are able to provide this schedule to the management agency with 48 hours in the event of an incursion.

#### MAF response:

MAF does not recommend any changes to this clause.

MAF notes the comments from beekeepers suggesting that apiaries remain registered until they are deregistered at the request of the beekeeper. However, the management agency uses the apiary register to schedule apiary inspections, and does not want large numbers of apiaries without hives present remaining registered, as this leads to wasted resources when carrying out inspections.

MAF notes that beekeepers are currently required to report to the management agency within 30 days when they remove all their hives from an apiary.

#### Clause 25 – Destruction of beehives posing risk

Four submitters considered that the management agency should be able to destroy infected hives after seven days, even if the owner cannot be located.

Five submitters agreed that advertising in newspapers should be disestablished and four other submitters felt that the notification period should be extended. Three submitters favoured a notification period of 30 days, and one submitter suggested a period of three months, recommending that the Strategy should protect beekeepers from having their hives unjustifiably removed by the management agency.

Three submitters suggested that the clause be extended to allow the management agency to remove hives from 'at risk' sites, or where they pose a threat to public safety. Another submitter suggested that the management agency's power is extended to take action on diseased hives where the owner is known, but has failed to act.

Four submitters suggested that any unidentified owners of abandoned hives that have been removed or destroyed by the management agency should be fined or billed for the costs incurred if the owners are identified at a later stage.

**MAF response:**

MAF recommends removing clause 2(c) that requires a notice to be published in the daily newspaper and industry journal to attempt to find the owners of beehives posing risk. The management agency will still be required to place a notice on any unregistered hives for 30 days before taking any action, and to make reasonable enquiries to locate the owner of the hives.

MAF also agrees with the proposal to allow the management agency to destroy infected unregistered hives within seven days. Therefore, to clarify the purpose of this clause, the title should be amended to read as follows:

*Clause 25 – Destruction of unregistered hives posing risk.*

MAF recommends that clause 25 is separated into two parts, which provides the management agency with the option and authority to:

- destroy unregistered hives, where an inspector has given the appropriate notice to act within 30 days, and the owner of the hives has not been identified. This will not impose an obligation on the management agency to destroy unregistered hives, but provides the power for them to do so.
- destroy infected unregistered hives within seven days of finding the hives, after taking reasonable steps to identify the owners.

In relation to the submission concerning the removal of hives from 'at risk' sites or where they pose a threat to public safety, this is outside the scope of the Strategy.

MAF also recommends adding a new sub-clause (25A) – this will clarify the powers of the management agency to destroy infected registered hives, where the owner has been given notice to take action and has not done so.

### **Clause 26 – Notification of American foulbrood**

Six submitters favoured keeping the requirement that all cases of American foulbrood infections are reported to the management agency within seven days. One of the six submitters suggested that beekeepers who do not provide reports within that timeframe could be fined. One submitter suggested creating an online reporting mechanism would make the reporting requirement easier.

Three submitters felt that seven day reporting is unnecessary and one submitter stated that reporting after a reasonable time should be satisfactory, as long as the infected hives are destroyed within seven days.

One submitter considered that non-serious outbreaks should only be reported on at the end of each month and another submitter considered that there should be latitude given for time taken to report an outbreak, as long as there is no chance of the hive dying or being robbed out.

One submitter pointed out that *any* person discovering American Foulbrood is obliged to report it to both the management agency and the beekeeper, and that this rule is often misunderstood. Another submitter considered that the phrase “and the beekeeper” is unnecessary in this clause.

**MAF response:**

MAF recommends that the requirement to report all cases of American foulbrood infections within seven days remains unchanged.

While this is an operational matter for the Management Agency, MAF believes that an online reporting function for the apiary register will improve the ease of reporting and encourage better compliance.

**Clause 27 – Annual Disease Return**

Three submitters recommended that the management agency should cancel the Disease of Elimination Conformity Agreements (DECA’s) of beekeepers, who fail to submit their Annual Disease Returns, and have their hives inspected at the beekeeper’s expense. Two submitters also suggested introducing instant fines to raise compliance. Another submitter suggested that the New Zealand Food Safety Authority should link export certification to Annual Disease Return compliance, as this would provide a big incentive for beekeepers to comply. One submitter also suggested increasing to two inspections per year, rather than one.

Many submitters felt that the current system used for Annual Disease Returns is an unnecessary and confusing limitation, which beekeepers often do not have time for or understand. Suggestions included:

- Allowing beekeepers to complete and submit Annual Disease Returns online.
- Aligning the due date for Annual Disease Returns with the date that levies are paid, so that there is no dispute about the number of hives for which a beekeeper should be paying levies.
- Giving beekeepers a list of approved beekeepers that are willing to inspect their hives and sign the Certificate of Inspection.

**MAF response:**

MAF notes that the management agency has been highly successful in improving compliance with the requirement for beekeepers to submit an Annual Disease Return. In 2008, a record 92 percent of beekeepers submitted an Annual Disease Return, and this increased to 96 percent in 2009. This has been achieved through increased education, and more extensive follow-up of non-complying beekeepers. However, it should be noted that only 62 percent of beekeepers submitted an Annual Disease Return by the 1 June deadline – the remainder required one or more follow-up messages, which imposes costs on the management agency.

MAF recommends that this clause be amended to explicitly allow for electronic self-reporting onto a database. It is an operational matter for the management agency as to whether it wishes to move to electronic reporting. MAF understands the apiary register has been upgraded to make some online reporting possible, and that this technology is due to be field-tested in the near future.

MAF also notes that there is no scope in the Biosecurity Act 1993 for a management agency to be given the power to levy instant fines and there is no plan to change legislation on this issue.

MAF recommends that the management agency consider amending the levy calculation date and the date levies are due, so as to ensure that levies are based on up-to-date information (refer to 5.2 *Strategy Funding*).

MAF notes that the management agency has the power to amend or cancel the DECA of a beekeeper who does not meet the requirements of the strategy, including the requirement to submit an Annual Disease Return.

MAF notes that export certification is based on the requirements of the importing country. MAF (which includes biosecurity and food safety functions) does not support imposing export certification requirements in excess of those required by trade partners, as a means of improving compliance with domestic disease control strategies.

#### **Clause 28 – Obligation of beekeeper to destroy honeybees and materials**

One submitter suggested that this clause should allow for an authorised person to burn material infected with American foulbrood if the owner of the hive cannot be located. No other specific suggestions on this clause were received.

##### **MAF response:**

The management agency already has powers to destroy materials infected with American foulbrood. See the suggested changes under Clause 25.

#### **Clause 29 – Prohibition of dealings with materials associated with American foulbrood**

No specific comments on this clause were received.

#### **Clause 30 – Exemptions for research, education, and training**

No specific comments on this clause were received.

#### **Clause 31 – Dealing with products from honeybee colony with American foulbrood**

One submitter felt that Section 154q should be used more in enforcing this clause. No other specific suggestions on this clause were received.

##### **MAF response:**

MAF notes this view.

#### **Clause 32 – Certificate of Inspection**

Two submitters suggested that the Certificate of Inspection form are sent out with, or included in, the Annual Disease Return form. Several submitters also considered that many beekeepers do not understand what is required for the Certificate of Inspection, and how it relates to the Annual Disease Return, which is why compliance has been poor.

Many submitters highlighted this lack of beekeeper education, especially among hobbyists. Suggestions to help improve it included:

- Encourage all beekeepers to sit the recognition test for American foulbrood.
- Appoint Apiary Officers who would work directly with beekeepers.
- Work with hobby groups to ensure all understand their obligations.
- Publish a list on the management agency's website of approved beekeepers who can sign off on Certificates of Inspection.

Many submitters also felt that there should be a greater focus on compliance to ensure that all beekeepers who are required to are submitting their Certificates of Inspection. Suggestions to raise compliance included:

- Carrying out inspections at the beekeepers cost if they have not submitted their Certificate of Inspection on time.
- Introducing penalties or fines for late Certificates of Inspection. One submitter suggested that a discount on beekeeper levies also be offered for those who return their Certificate of Inspection early, as an incentive.
- Allowing for penalties in the Order, rather than relying on section 154q of the Biosecurity Act.

**MAF response:**

Submitter's views on this section as the comments are widely around operational issues.

MAF considers that Certificates of Inspection have been the component of the strategy that has been the least successful. Over the 10 years from 1998, compliance rarely exceeded 30 percent. In 2009, the management agency lifted this to 64 percent through improved follow-up of non-complying beekeepers. Further measures are planned for the future, including making available lists of beekeepers able to carry out Certificates of Inspection inspections.

MAF recommends that no amendments be made in this clause at present. The management agency has proposed a number of measures to improve Certificate of Inspection compliance, including:

- Improving the quality and accessibility of information/ resources (i.e. educational material for hobbyists).
- Making available a list of beekeepers who are accredited to sign off Certificates of Inspection.
- Better follow up with beekeepers who do not submit the required information.

If these measures do not bring about adequate compliance with Certificate of Inspection requirements, more significant changes could be considered in the next review of the strategy.

**Clause 33 – Statement by person inspecting honeybee colonies**

One submitter suggested adding a section to this clause, stating, “that the person inspecting beehives in conjunction with this clause notifies the beekeeper and the management agency within seven days of the discovery of American foulbrood”. No other specific suggestions were received on this clause.

**MAF response:**

MAF recommends that this clause is reworded to impose an obligation to notify the management agency of infected American foulbrood status. At present, the inspector/authorised person must notify the beekeeper, who has a responsibility to report to the management agency. Having AFB reported directly to the management agency, as well as to the beekeeper, is a more robust way of ensuring disease is recorded.

**Clause 34 – Obligation to notify beekeeper of American foulbrood case**

Three submitters felt that the inspector should also report any American foulbrood infection to the management agency, as well as the beekeeper; one also specified that this should be done within seven days of discovering the infection.

Four submitters considered that the inspector should only be required to report to the management agency, and the management agency should inform the owner. However, all felt that the inspector should inform the owner if practicable, with one suggesting that a notice be left inside the hive.

One submitter supported the discussion document's suggestion to insert the phrase "or under the authority of the Biosecurity Act 1993" into this clause, to impose a legal requirement on the inspector.

**MAF response:**

MAF recommends that a clause requiring all persons who find foulbrood while carrying out inspections under the authority of the Biosecurity Act to report the foulbrood to the management agency.

**Clause 35 – Obligation to specify approved methods**

No specific comments were received on this clause.

**Clause 36 – Certificate of Inspection exemption**

Three submitters considered that there should be *no* exemptions from the requirement to provide a Certificate of Inspection unless the beekeeper has passed an American foulbrood recognition test.

**MAF response:**

MAF recommends that this clause remains the same. However, a change to clause 37 (below) means that only beekeepers who have passed a course in American foulbrood recognition approved by the management agency will be eligible for a DECA, and therefore for a Certificate of Inspection exemption.

**Clause 37 – Disease Elimination Conformity Agreement**

Four submitters considered that it should be mandatory for beekeepers to sit and pass the recognition test before gaining a DECA, with one suggesting that beekeepers that have not done so should have their DECAs revoked. Another submitter was not convinced that the test was necessary, but stated that if it is, the requirement needs to be made explicit in the Order.

Two submitters suggested that DECAs should also be revoked for non-compliances or breaches of the regulations.

Many submitters wanted a greater emphasis on practical education, with suggestions including holding field days and workshops, especially for newer beekeepers. One submitter felt that the management agency should do more to support beekeepers trying to gain their DECA, by providing education and testing facilities. Another suggested that the written test be cancelled altogether, and the funding from it to go towards practical education sessions. Another submitter submitted that the written test is not a good way of judging a beekeeper's ability at recognising and managing American foulbrood.

Two submitters suggested that DECAs be reviewed after the beekeeper has turned 60, and another suggested that an eyesight test be included in the DECA criteria.

Three submitters felt that DECAs are unnecessary, with one suggesting that it be replaced with a requirement to attend an American foulbrood workshop every two years. Another submitter considered that hobbyists should be exempt from the requirement to gain a DECA.

Other suggestions included:

- Instead of gaining DECAs, beekeepers become “registered beekeepers” once they have passed the recognition test.
- The management agency to review all DECAs every two years.
- The management agency to review a percentage of DECAs every year.
- Add DECA details to the Apiary Register to make it easier to identify which beekeepers have or have not gained theirs.
- Have all beekeepers sit a refresher test after five years.

**MAF response:**

MAF recommends only a single change to this clause, making it mandatory for a beekeeper to pass a course recognised by the management agency in American foulbrood recognition and management before receiving a DECA.

MAF notes that in late 2008, the management agency revoked the DECA of all beekeepers who had not completed an American foulbrood recognition test. This resulted in approximately 450 DECAs being removed, primarily from hobby beekeepers. The management agency has been working to improve the robustness of the DECA system.

MAF considers that most of the other comments submitters made in relation to DECAs are operational in nature, and could be implemented without changing the wording of this clause.

*Eye tests*

MAF notes there is a “suitability” requirement for persons named in the DECA as persons responsible for disease management- refer section 37(1)(b)(iii) of the Biosecurity Act. If the management agency believed that a person’s eyesight was a factor in assessing their suitability to hold a DECA, it could make a issuing a DECA conditional on having a satisfactory eye test. However, the management agency could not exercise this power in an arbitrary or unreasonable manner.

#### **Clause 38 – Amendment of Disease Elimination Conformity Agreement by Management agency**

One submitter pointed out that this clause should take into account the fact that the level of American foulbrood infection is likely to rise with varroa infection, through no fault of the beekeepers’. No other specific comments were received on this clause.

**MAF response:**

MAF notes this view.

#### **Clause 39 – Review of Certificate of Inspection Exemption**

Six submitters considered that the management agency should review or revoke the DECAs of beekeepers who display poor management, have increased levels of disease, or fail the competency test. Three of the six also felt that DECAs should be redefined, to make the requirements clear.

Three submitters agreed that the requirement for the management agency to review all DECAs annually was not practicable. Two of the three suggested that the management agency monitor beekeepers’ disease levels, and review DECAs if the level of disease became a

concern. The third submitter suggested auditing a percentage of DECAs every year at random, withdrawing the DECAs of beekeepers who have not passed the competency test, and reviewing all DECAs older than 10 years if the appropriate management techniques have changed significantly over that time.

**MAF response:**

As suggested in the proposal document, the management agency does not have the necessary resources to review each of the exceptions annually. MAF recommends that this clause is amended to remove this requirement from the management agency.

This will permit the management agency to determine its own priorities for reviewing CoI exemptions, which will allow it to target beekeepers and regions with high or increasing disease levels.

### **Clause 40 – Inspections and audits**

A range of opinions were received on this clause. Four submitters felt that testing should be targeted at specific areas of concern or “problem” beekeepers, rather than being carried out on a random basis. However, one of the four also considered that the current level of random audits should continue in conjunction with selective testing.

One submitter suggested that inspections be discontinued, and funding transferred to enable the management agency to do more sample testing of honey. Another suggested that testing honey for the presence of spores should be discontinued, and the amount of auditing done by the management agency reduced – the result in savings could be used to pay inspectors a fair rate for their work. Another suggested that the proposed changes in the discussion document would prove too costly; suggesting instead that the references in this clause to audits should be changed to “random checking”. Another submitter agreed to the discussion document’s proposed changes, but only if the management agency hired Apiary Officers to work with beekeepers.

One submitter suggested that this clause should also require the management agency to follow up to make sure that infected hives have actually been destroyed.

**MAF response:**

MAF recommends rewording this clause, as proposed in the original discussion paper, to specify that sample testing be primarily targeted in areas of concern, such as high prevalence areas or apiaries with repeated American foulbrood infections. The suggested wording change to ensure targeted audits is the following:

- 40(1) The management agency must carry out an audit in relation to a beekeeper where it has reasonable grounds to suspect that one or more of the following applies:
- (a) there has been a significant or recurring failure on the part of the beekeeper to comply with any of their obligations under the Strategy
  - (b) statements made in any or all of the following are inaccurate, misleading or false in a material particular:
    - (i) Annual Disease Returns
    - (ii) Certificates of Inspection
    - (iii) Notifications of American foulbrood cases

Clause 40(1) (c) would be deleted

### Clause 41 – Funding of Strategy

Please refer to section 5.2 *Strategy Funding* above for a summary of submissions and MAF's response on this clause.

### Clause 42 – Compensation

Two submitters expressed concerns about this clause, with one stating that the management agency has the potential to make mistakes that would affect a beekeeper's livelihood. The other submitter considered that inspectors should be liable for losses due to negligence, and carry liability insurance.

#### MAF response:

Clause 42 of the AFB Strategy states that compensation is not payable in respect of losses arising from the Strategy. However, an Authorised Person who acts without reasonable grounds could lose the protection of s163 of the Biosecurity Act (no protection from liability where powers exercised in bad faith or without reasonable cause) and could be personally liable to the owner either in civil law or under the criminal law. While the management agency is able to act without incurring compensation liability, an authorised person who misuses Strategy powers could be found liable by the courts.