

CHAPTER 24

DISEASES OF BEES AND BEEKEEPING ACTIVITIES

Authority

N.J.S.A. 4:1-11.1, 4:1-21.5, and 4:6-1 et seq.

Source and Effective Date

Effective: October 26, 2017.

See: 49 N.J.R. 3589(b).

Chapter Expiration Date

Chapter 24, Diseases of Bees and Beekeeping Activities, expires on October 26, 2024.

Chapter Historical Note

Chapter 24, Diseases of Bees, was adopted as Emergency New Rules by R.1984 d.592, effective December 12, 1984, to expire February 11, 1985. See: 17 N.J.R. 118(a).

Chapter 24, Diseases of Bees, was readopted as R.1985 d.107, effective February 11, 1985. See: 17 N.J.R. 118(a), 18 N.J.R. 573(a).

Subchapter 2, Registration of Apiaries, and Subchapter 3, Transport of Bees, were adopted as R.1989 d.128, effective March 6, 1989. See: 20 N.J.R. 2951(a), 21 N.J.R. 633(a).

Pursuant to Executive Order No. 66(1978), Chapter 24, Diseases of Bees, expired February 11, 1990.

Chapter 24, Diseases of Bees, was adopted as new rules by R.1990 d.202, effective April 2, 1990. See: 21 N.J.R. 3045(b), 22 N.J.R. 1116(b).

Subchapter 4, Volunteer Inspector Program, Noncommercial Apiaries and Bees, was adopted as R.1992 d.278, effective July 6, 1992. See: 24 N.J.R. 1141(a), 24 N.J.R. 2421(a).

Pursuant to Executive Order No. 66(1978), Chapter 24, Diseases of Bees, was readopted as R.1995 d.200, effective March 13, 1995, and Subchapter 1, Definitions, and Subchapter 4, Inspection and Certification of Apiaries, were adopted as new rules and Subchapter 1, Shipment of Bees into New Jersey, Subchapter 2, Registration of Apiaries, Subchapter 3, Transport of Bees, and Subchapter 4, Volunteer Inspector Program, Noncommercial Apiaries and Bees, were recodified as Subchapter 2, Shipment of Bees into New Jersey, Subchapter 3, Registration of Apiaries, Subchapter 5, Transport of Bees, and Subchapter 6, Voluntary Inspector Program, Noncommercial Apiaries and Bees, by R.1995 d.200, effective April 3, 1995. See: 27 N.J.R. 5(a), 27 N.J.R. 1400(a). Pursuant to Executive Order No. 66(1978), Chapter 24 expired on March 13, 2000.

Chapter 24, Diseases of Bees, was adopted as new rules by R.2000 d.165, effective April 17, 2000. See: 32 N.J.R. 343(a), 32 N.J.R. 1417(b).

Chapter 24, Diseases of Bees, was readopted as R.2005 d.289, effective August 5, 2005. As a part of R.2005 d.289, Subchapter 6, Voluntary Inspector Program, Noncommercial Apiaries and Bees, was repealed, effective September 6, 2005. See: 37 N.J.R. 1276(a), 37 N.J.R. 3284(a).

Chapter 24, Diseases of Bees, was readopted as R.2011 d.062, effective January 25, 2011. See: 42 N.J.R. 1647(a), 43 N.J.R. 389(b).

Subchapter 6, Preservation of Honey Bee Colonies, was adopted as new rules by R.2012 d.163, effective September 17, 2012. See: 44 N.J.R. 1583(a), 44 N.J.R. 2241(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 24, Diseases of Bees, was scheduled to expire on January 25, 2018. See: 43 N.J.R. 1203(a).

Chapter 24, Diseases of Bees, was readopted, effective October 26, 2017. See: Source and Effective Date.

Chapter 24, Diseases of Bees, was renamed Diseases of Bees and Beekeeping Activities; and Subchapter 7, Apiary and Municipal Administrative Standards for Breeding and Keeping of Bees and Related Activities, was adopted as new rules by R.2019 d.035, effective May 6, 2019. See: 49 N.J.R. 3565(a), 50 N.J.R. 2355(a), 51 N.J.R. 577(a).

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SUBCHAPTER 1. DEFINITIONS

2:24-1.1 Definitions

As used in this chapter, the following words and terms shall have the following meanings:

“Adequate source of water” means a constant and continuous source(s) of water provided by the beekeeper, or naturally available, on the same property as the hives.

“Adjoining property” means any property that shares any boundary with the property upon which the subject apiary is located.

“Apiary” means one or more hives (each containing a colony) of honeybees that are kept at a single location. The property where the hive(s) are located may or may not be owned by the owner of the hives. If used for overwintering hives, apiaries must be registered pursuant to N.J.A.C. 2:24-3.1.

“Bee” means members of the genus *Apis*.

“Beekeeper” means any person or entity who owns and engages in the breeding or keeping of honeybee hive or hives.

“Certified and licensed responsible pesticide applicator” means any responsible pesticide applicator who is certified and licensed pursuant to the provisions of either N.J.A.C. 7:30-6, Commercial Pesticide Applicators, or N.J.A.C. 7:30-8, Private Pesticide Applicators.

“Colony” means an aggregate of bees, the hive, and associated equipment, including honeybees, comb, pollen, and brood.

“Commercial beekeeper” means:

1. A beekeeping operation that overwinters hives and produces honey or other agricultural or horticultural apiary-related products;
2. Provides crop pollination services, worth \$10,000 or more annually; and/or
3. Otherwise qualifies as a commercial farm pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., as amended and supplemented.

“Commercial pesticide applicator” means any person (whether or not he or she is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide for any purpose or on any property other than as provided by the definition of “private pesticide applicator.” Any employee of a government agency who engages in the use and application of pesticides as is necessary within the scope of his or her employment is considered a commercial pesticide applicator.

“Commercial pesticide operator” means any person who applies pesticides by equipment other than aerial under the direct supervision of a responsible commercial pesticide applicator.

“Consignee” means the receiver of any bees or equipment shipped into New Jersey.

“Deep frame” means a moveable frame designed to fit a standard 9 5/8 inch tall hive.

“Department” means the New Jersey Department of Agriculture.

“Equipment” means hive parts, bee-related tools and extracting or wax rendering appliances.

“Governing authority” means the Department or its designee or, if the Department delegates authority to a municipality, the governing body of the municipality or its designee as approved by the Department pursuant to N.J.A.C. 2:24-7.4.

“Hive” means the manmade structure with removable frames intended for the housing of and that contains a colony of honey bees.

“Hive identification” means a mark that has been branded, engraved, painted, or written with permanent marker on each hive(s) and that shall be a name, number, initials, or image.

“Hobbyist beekeeper” means one who engages in beekeeping and may gift or sell apiary products involving the bees or apiary products, who is not a commercial beekeeper.

“Man-made native bee hive” means a tube or other apparatus in which bees may nest and that is installed to attract native bees.

“Migratory commercial beekeeper” means a commercial beekeeper who moves his or her hives to different locations in New Jersey and/or to different states throughout the seasons to facilitate pollination of feed crops and take advantage of nectar flows, but who does not overwinter the hives in New Jersey and is not required to register pursuant to N.J.A.C. 2:24-3.1.

“Native bee” means a bee of a species that is native to the State and does not produce honey, but provides for the pollination of crops or plants, or other agricultural, environmental, or horticultural benefits.

“Nucleus” means a small honeybee hive with between three to five deep frames, or their equivalent, in the box and no supers attached.

“Nuc box” is a small box commonly used by beekeepers to house a nucleus.

“Overwintering” means keeping hives within New Jersey from November through March.

“Package” means a group of bees, with or without a queen, shipped without comb in a wire cage.

“Pesticide applicator” means any person who is required to be certified and registered pursuant to the provisions of either N.J.A.C. 7:30-6, Commercial Pesticide Applicators, or N.J.A.C. 7:30-8, Private Pesticide Applicators.

“Private pesticide applicator” means any person who uses or supervises the use of any pesticide for the purposes of producing any agricultural commodity on property owned or rented by him or her or his or her employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

“Queen” means the female reproductive caste of the honey bee. These normally are shipped in small individual cages and are often accompanied by up to a half dozen sterile workers as attendants.

“Responsible pesticide applicator” means any individual who is accountable for the use of a pesticide by himself or herself or any person under his or her direct supervision.

“Scale” means the remains of an immature bee that has died from the American foulbrood disease.

“Secretary” means the Secretary of Agriculture or an authorized designee.

“Seller” means any person or business entity which offers for sale queens, packages or divides into or within New Jersey or to New Jersey residents.

“Shipper” means any person or business entity that ships or dropships queens, packages, or divides into New Jersey or to New Jersey residents.

“Super” refers to any hive body or smaller box used for the storage of surplus honey that is placed over or above the brood chamber.

“Swarming” refers to the natural method of propagation of the honeybee colony where a portion of the colony leaves looking for a new location.

“Undeveloped tract of land” means any land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities, or other structures or improvements intended for human use and occupancy, and the grounds maintained in association therewith.

Amended by R.1998 d.191, effective April 20, 1998.

See: 30 N.J.R. 508(a), 30 N.J.R. 1401(b).

Inserted “Beekeeper” and “Scale”.

Amended by R.2005 d.289, effective September 6, 2005.

See: 37 N.J.R. 1276(a), 37 N.J.R. 3284(a).

Deleted “Activity log”, “Advisory report”, “VIP”, and “VIP designee” definitions.

Amended by R.2012 d.163, effective September 17, 2012.

See: 43 N.J.R. 1583(a), 44 N.J.R. 2241(a).

Added definitions “Certified and licensed responsible pesticide applicator”, “Commercial pesticide applicator”, “Commercial pesticide operator”, “Pesticide applicator”, “Private pesticide applicator” and “Responsible pesticide applicator”.

Amended by R.2019 d.035, effective May 6, 2019.

See: 49 N.J.R. 3565(a), 50 N.J.R. 2355(a), 51 N.J.R. 577(a).

Rewrote the section.

product, article or means of conveyance of any character whatsoever, which when determined by the Department of Agriculture presents the risk of the spread of any contagious and infectious disease, arthropod pest or condition as determined by the Department of Agriculture, shall be permitted importation only if in compliance with N.J.A.C. 2:24-2.2 through 2.5.

Amended by R.1995 d.200, effective April 3, 1995.

See: 27 N.J.R. 5(a), 27 N.J.R. 1400(a).

2:24-2.2 Entities with apiary inspection services

(a) No colony, nucleus of bees, used apiary equipment coming from a state or country having an apiary inspection service shall be permitted into New Jersey unless accompanied by a valid certificate of inspection from the exporting state or country stating that the bees or equipment are apparently free from the conditions listed in N.J.A.C. 2:24-2.1 and that the bees are not Africanized bees derived from the African subspecies (*Apis mellifera scutellata*) and free from the characteristics identifiable therewith in accordance with N.J.A.C. 2:24-3.1.

(b) No certificate of inspection shall be honored unless a brood nest inspection was made no more than 60 days prior to shipment from the site the bees were immediately prior to shipment into New Jersey. Inspections shall be conducted in the manner prescribed at N.J.A.C. 2:24-4.

1. The inspection date and percentage of inspection for American foulbrood, the percentage sampled for Varroa mites, if available and the sampling method with the results, must be shown on the inspection certificate.

(c) Each colony must be annually inspected by a duly appointed inspector of the state of origin.

(d) No certificate of inspection shall be honored by the New Jersey Department of Agriculture on any colonies infected with American foulbrood. If an examination of the bees is undertaken pursuant to N.J.A.C. 2:24-2.1, the certificate of inspection will not be honored unless the findings of the examination are supplied.

(e) No certificate shall be honored unless the sampling procedure is done in accordance to a sampling standard of the industry, or U.S. Department of Agriculture, and recognized by the New Jersey Department of Agriculture.

(f) The certificate of inspection must be received prior to entrance into New Jersey by the:

Director, Division of Plant Industry
New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625-0330
Phone (609) 406-6939
Fax (609) 406-6960

SUBCHAPTER 2. SHIPMENT OF BEES INTO NEW JERSEY

2:24-2.1 Regulated articles

Bees of the genus *Apis*, in any life stage, fresh or frozen bee sperm, used equipment, unprocessed comb, and any other

Amended by R.1995 d.200, effective April 3, 1995.

See: 27 N.J.R. 5(a), 27 N.J.R. 1400(a).

Amended by R.2005 d.289, effective September 6, 2005.

See: 37 N.J.R. 1276(a), 37 N.J.R. 3284(a).

In (c), substituted "annually inspected" for "marked" and deleted the sentence "Such marks must be changed annually."

Amended by R.2012 d.163, effective September 17, 2012.

See: 43 N.J.R. 1583(a), 44 N.J.R. 2241(a).

In (a), updated the second N.J.A.C. reference; in the introductory paragraph of (b), deleted "and a Varroa mite sample taken," following "made"; deleted former (b)1; recodified former (b)2 as (b)1; in (b)1, inserted "if available"; and in (d), inserted "by the New Jersey Department of Agriculture", deleted "or from an infected area as determined by the New Jersey Department of Agriculture" following "foulbrood", and updated the N.J.A.C. reference.

Administrative change.

See: 47 N.J.R. 101(a).

2:24-2.3 Queen or package bees

(a) All apiaries shipping queen or package bees into or within New Jersey shall have recorded with the New Jersey Department of Agriculture, a valid certificate in accordance with N.J.A.C. 2:24-2.2.

(b) All sellers or shippers shall provide the Department, by February 1, of the following year, with a list, including consignee's name and address, of all queen or package shipments to New Jersey or to New Jersey residents during the preceding year (that is, January 1 through December 31).

Amended by R.1995 d.200, effective April 3, 1995.

See: 27 N.J.R. 5(a), 27 N.J.R. 1400(a).

Amended by R.2019 d.035, effective May 6, 2019.

See: 49 N.J.R. 3565(a), 51 N.J.R. 577(a).

In (a), inserted "or within"; and deleted (c).

2:24-2.4 Transporter

No colony, nucleus of bees or used apiary equipment coming from a state or country having apiary inspection service shall be accepted by any person or common carrier for transportation to a point within this state unless accompanied by a valid certificate of inspection stating that the bees or equipment are free of the conditions listed in N.J.A.C. 2:24-2.1 and 2:24-2.2. A copy of the certificates will be carried by the transporter and shown to the grower, apiary inspector or law enforcement personnel upon request.

Amended by R.1995 d.200, effective April 3, 1995.

See: 27 N.J.R. 5(a), 27 N.J.R. 1400(a).

2:24-2.5 Entities without apiary inspection services

A colony, nucleus of bees or used apiary equipment coming into New Jersey from a state or country having no apiary inspection service shall be immediately reported by the consignee and by the person or carrier delivering them in this state; giving the name and address of the consignee to the Department of Agriculture, which shall cause the shipment to be inspected at such time as shall be prudent and proper. Documentation of such inspection shall be issued to the owner and consignee after examination by the Department of Agriculture as to the freedom from the conditions listed in N.J.A.C. 2:24-2.1 and 2.2.

Amended by R.1995 d.200, effective April 3, 1995.

See: 27 N.J.R. 5(a), 27 N.J.R. 1400(a).

SUBCHAPTER 3. REGISTRATION OF APIARIES

2:24-3.1 Registration requirements; confidentiality and documentation

(a) All beekeepers must register and obtain a unique Apiary Inspection Service (AIS) number covering all of the beekeeper's bee yard location(s) where bees are overwintered.

(b) All beekeepers in New Jersey who overwinter their bees must register their apiary(ies) with the New Jersey Department of Agriculture Apiary Inspection Program on an annual basis.

(c) The registration application is to be submitted electronically at https://www24.state.nj.us/AG_Apiary/ApiaryApp or by paper and shall include the following:

1. The name, address, email address, and phone number of the beekeeper;
2. The actual physical location of the apiaries and, if the beekeeper is not the property owner, the name, mailing address, and telephone number of the property owner;
3. The mark or "hive identification";
4. The number of hives per location;
5. The electronic or physical signature of the registration applicant; and
6. Upon initial registration, acknowledgement from the beekeeper overwintering apiaries, of the requirement that within a year prior to or after the date of the initial registration, the beekeeper shall take a beginner/general beekeeping course from either an accredited college or university, the State Apiarist, or a local beekeeping club. By the second annual registration, the beekeeper shall certify compliance with this educational requirement.
 - i. This education requirement shall not apply to beekeepers who have been continuously registered under the AIS system prior to May 6, 2019; or
 - ii. This education requirement shall not apply to beekeepers who certify they are certified as Master Beekeepers through an accredited program.
7. If submitted by paper, the application shall be mailed to:

Director, Division of Plant Industry
New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625.

(d) The only information contained in the individual registration that shall be considered public shall be the beekeeper's

name and mailing address; all other beekeeper required information shall be considered confidential.

(e) Issuance of certificate of registration. The Department shall review the application for completion and request additional information, if necessary, before issuing the certificate of registration pursuant to this section.

(f) Active registrations. The certificate of registration shall bear the date of the issuance, name of the beekeeper, description of the premises covered by the registration, and beekeeper AIS number. Every registration of apiary(ies) shall be non-transferable and shall cover the apiary(ies) and the named beekeeper AIS number.

(g) All active registrations are provided by the Department and are valid in every municipality where a registered hive is located.

(h) Expiration date. Every certificate of registration under this section shall automatically expire on the 31st day of December in the year in which it was issued.

(i) The Department shall supply the registrant, through a link to its website, with access to current New Jersey laws and rules.

Amended by R.1990 d.202, effective April 2, 1990.
See: 21 N.J.R. 3045(b), 22 N.J.R. 1116(b).

New (b) added.

Amended by R.1995 d.200, effective April 3, 1995.
See: 27 N.J.R. 5(a), 27 N.J.R. 1400(a).

Amended by R.2005 d.289, effective September 6, 2005.
See: 37 N.J.R. 1276(a), 37 N.J.R. 3284(a).

In (d), substituted "Upon request, the" for "The" preceding "Department".

Amended by R.2019 d.035, effective May 6, 2019.

See: 49 N.J.R. 3565(a), 50 N.J.R. 2355(a), 51 N.J.R. 577(a).

Rewrote the section.

2:24-3.2 (Reserved)

Repealed by R.1990 d.202, effective April 2, 1990.
See: 21 N.J.R. 3045(b), 22 N.J.R. 1116(b).

SUBCHAPTER 4. INSPECTION AND CERTIFICATION OF APIARIES

2:24-4.1 Inspection protocol

(a) Beekeepers will be notified in advance, where possible and feasible, of any potential inspection of their bees.

(b) All inspections will be conducted in accordance with the following procedures:

1. The minimum number of hives, as listed below, shall be physically opened and the brood nest inspected for American foulbrood:

1–10 colonies in an apiary—100 percent of the colonies

11–20 colonies in an apiary—50 percent of the colonies

21–50 colonies in an apiary—33 percent of the colonies

51 + colonies in an apiary—20 percent of the colonies

2. Any apiary site where American foulbrood is found shall be inspected 100 percent.

3. Varroa mite sampling may be conducted as a population level monitoring tool by the State Apiarist.

(c) All hives sold in New Jersey must be found by the Department to be apparently free of American foulbrood. The inspection by the Department shall be conducted within 10 working days of the request for inspection by the seller.

(d) The treatment procedure for American foulbrood infected hives within New Jersey is as follows:

1. The Department shall categorize the infected colonies as "treatable" for control of American foulbrood (AFB) or "non-treatable." This classification shall be at the discretion of the inspector, according to (d)2 and 3 below, although the beekeeper is invited to be present and assist during the inspection.

2. Procedures for "treatable" colonies shall be as follows:

i. "Treatable" colonies are those colonies with no AFB scale present.

ii. The beekeeper shall begin treatment of the remainder of the infected colony within 15 days of inspection by the Department with Terramycin or other material/method approved by the Department.

iii. The Department shall reinspect "treatable" colonies as soon after 60 days as weather conditions permit. Colonies would be under a one-year probationary period. If treatment is not successful during this one-year period, the colony would be considered non-treatable.

3. Procedures for "non-treatable" colonies shall be as follows:

i. "Non-treatable" colonies are those colonies that have observable AFB scale.

ii. The beekeeper shall remove and destroy by burning all wooden frames within 15 days of the initial inspection. Upon request, the Department shall assist the beekeeper in obtaining the necessary burning permits.

iii. All other hive parts shall be disposed in a landfill, destroyed by burning, treated by scorching, or rendered disease-free by any other method approved by the Department.

iv. The Department may reinspect the infected equipment as soon as possible but no sooner than 30 days after initial inspection.

(e) All colonies requiring treatment for contagious/infectious diseases or other pests are subject to quarantine by the Department. If time constraints prohibit treatment before

movement, the Department, upon request from the beekeeper, may approve movement to a holding yard until treatment is commenced.

(f) The beekeeper may be subject to penalty actions as per N.J.S.A. 4:6-12 through 14 for failure to follow treatment procedures detailed above.

Administrative change.

See: 27 N.J.R. 2577(a).

Amended by R.1998 d.191, effective April 20, 1998.

See: 30 N.J.R. 508(a), 30 N.J.R. 1401(b).

Rewrote (d); and added (e) through (g).

Amended by R.2012 d.163, effective September 17, 2012.

See: 43 N.J.R. 1583(a), 44 N.J.R. 2241(a).

Rewrote the introductory paragraph of (a) and (b)3; in (c), deleted the second sentence; deleted former (d); recodified former (e) as (d); in (d)1, substituted "(d)2" for "(e)2"; in (d)2i, deleted "less than 10 percent AFB infection and" following "with"; deleted former (d)2ii; recodified former (d)2iii and (d)2iv as (d)2ii and (d)2iii; rewrote (d)iii; in (d)3i, substituted "that" for "which", and deleted "10 percent or more AFB infection or have" following "have"; deleted former (f); and recodified former (g) and (h) as (e) and (f).

2:24-4.2 Certification protocol

All New Jersey queen breeders, as well as sellers of splits, nucleus or divides must obtain a certificate disclosing number of Varroa mites found per sample and provide a copy of such certificate to the buyer.

Amended by R.2012 d.163, effective September 17, 2012.

See: 43 N.J.R. 1583(a), 44 N.J.R. 2241(a).

Rewrote the section.

SUBCHAPTER 5. TRANSPORT OF BEES

2:24-5.1 Transport requirements

(a) All hives shall be adequately secured to prevent excess movement of the hives during transport, regardless of the time of the day.

(b) No bees shall be transported into or through New Jersey between sunrise and sunset unless:

1. All hive openings are either blocked or covered with screening material of at least eight squares per inch mesh, or the colonies are covered with a weather-proof netting of at least eight squares per inch mesh to prevent the escape of any bees from the vehicle; or

2. The bees are enclosed in a refrigerated containment vehicle that maintains the bees at a constant temperature below 45 degrees Fahrenheit.

(c) Vehicles transporting bees shall not stop, except for refueling or emergencies due to accident or equipment failure, unless certified for entrance into New Jersey, under N.J.A.C. 2:24-2.2 or 2.5.

(d) The vehicle operator or other responsible person shall immediately report to the New Jersey Department of Agricul-

ture, any release of bees, whether accidental or intentional which results during transport.

Amended by R.1995 d.200, effective April 3, 1995.

See: 27 N.J.R. 5(a), 27 N.J.R. 1400(a).

Amended by R.2012 d.163, effective September 17, 2012.

See: 43 N.J.R. 1583(a), 44 N.J.R. 2241(a).

Added new (a); recodified former (a) as new (b); in the introductory paragraph of (b), substituted "into" for "in", and inserted "between sunrise and sunset"; deleted former (a)1; recodified former (a)2 and (a)3 as (b)1 and (b)2; and recodified former (b) and (c) as (c) and (d).

SUBCHAPTER 6. PRESERVATION OF HONEY BEE COLONIES

2:24-6.1 Relocating honey bee colonies

(a) To preserve honey bee colonies in the State, any person including certified and licensed responsible pesticide applicators and commercial pesticide applicators and operators operating in the State shall contact the State Apiarist by phone at least 24 hours in advance of extermination of honey bees to obtain assistance in trying to relocate nuisance honey bee colonies or hanging swarms of honey bees, in lieu of destroying said honey bees. Honey bees shall not be destroyed without prior approval from the State Apiarist.

(b) In the event the State Apiarist is not reachable, any person including certified and licensed responsible pesticide applicators and commercial pesticide applicators and operators shall attempt to contact no fewer than three beekeepers identified by the New Jersey Beekeepers Association as swarm collectors servicing the affected county, in order to obtain assistance in relocating nuisance honey bee colonies or hanging swarms before nuisance honey bee colonies or hanging swarms of honey bees may be destroyed.

(c) The New Jersey Beekeepers Association maintains a website listing beekeepers offering to collect honey bee swarms and colonies inside structures at: <http://cjba.njbeekeepers.org/swarms.htm>.

2:24-6.2 Recordkeeping

A clear and legible written or computerized log of beekeepers contacted pursuant to N.J.A.C. 2:24-6.1 shall be maintained by any person for one year and made available for inspection upon request of the State Apiarist, or his or her representatives.

2:24-6.3 Exceptions

(a) Conditions of this subchapter do not apply to:

1. Commercial pesticide applications for the elimination of feral colonies of bees within either residential, commercial or institutional structures when the likelihood of exposure by persons allergic to bee venom presents a clear hazard; although any person, including certified and licensed responsible pesticide applicators, is encouraged to

seek the services of a beekeeper/swarm collector specializing in collecting colonies or swarms from inside structures in non-hazardous situations;

2. The State Apiarist, or his or her representatives in the elimination of diseased colonies found during inspection activities;

3. Honey bee colonies destroyed by a beekeeper/owner in the elimination of diseased colonies found during inspection or normal apiary management activities; or

4. Commercial pesticide applications performed at the direction of the United States Department of Agriculture Animal and Plant Health Inspection Service or the United States Customs and Border Protection for the elimination of suspect Africanized honey bees or other foreign species of the genus *Apis*.

2:24-6.4 Penalties

(a) Any person who intentionally destroys a man-made honey bee hive or hanging swarm without the approval required under this subchapter shall be liable to a civil penalty of up to \$1,000 for each offense.

(b) Any person who intentionally destroys a man-made native bee hive shall be liable to a civil penalty of up to \$500.00 for each offense.

(c) The penalties imposed pursuant to (a) and (b) above are to be collected by a summary proceeding under the Penalty Enforcement Law of 1999, P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and municipal court shall have jurisdiction to enforce the Penalty Enforcement Law of 1999 in connection with this action.

(d) If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. Penalties recovered for violations of this section shall be remitted to the Department of Agriculture and expended on programs to revive honey bee populations in the State.

Amended by R.2019 d.035, effective May 6, 2019.
See: 49 N.J.R. 3565(a), 51 N.J.R. 577(a).
Rewrote the section.

SUBCHAPTER 7. APIARY AND MUNICIPAL ADMINISTRATIVE STANDARDS FOR BREEDING AND KEEPING OF BEES AND RELATED ACTIVITIES

2:24-7.1 General scope and applicability

(a) This subchapter is not applicable to beekeepers not overwintering any hives, migratory commercial beekeepers, or commercial beekeepers.

(b) This subchapter establishes additional apiary standards for the breeding and keeping of honey bees and related activities, not otherwise contained in this chapter.

(c) Nothing in this subchapter shall be interpreted to supersede the protections afforded by the Right to Farm Act, P.L. 1983, c. 31 (N.J.S.A. 4:1C-1 et seq.), as amended and supplemented, or to create any standards to be applied under that act.

(d) This subchapter establishes standards of administrative procedure for delegating the authority to monitor and enforce the rules adopted pursuant to this subchapter to municipalities.

(e) The apiary standards in this subchapter reflect consideration of the population densities in rural, suburban, and urban areas of the State and the densities and intensities of development and differing land uses in communities throughout the State.

(f) Notwithstanding compliance with this chapter including these apiary standards, it shall be unlawful for any beekeeper to keep any hive or hives in such a manner or of such disposition as to pose a direct threat to:

1. Public health and safety; or
2. Bee health, as determined by the State Apiarist or his or her designee.

2:24-7.2 Apiary standards

(a) Colony density shall be as follows:

1.

Tract of Land Size	Number of Colonies Allowed
up to ¼ Acre	3
½ Acre	6
¾ Acre	9
1 Acre	12
Over 1 acre	3 per ¼ acre not to exceed (a)2 below

2. Notwithstanding (a)1 above, colony density shall not exceed 40 hives per contiguous tract of land.

3. For every two colonies permitted on a tract of land, there may be maintained upon the same tract one nucleus colony with no super attached from March 1st through October 31st. Any additional nucleus colony shall be moved to another location, tract, or combined with a colony on the same property within 90 days after the date made or acquired.

4. A beekeeper may seek permission from the governing authority to keep more hives than permissible under the requirements of this subchapter, by seeking a waiver as provided for under N.J.A.C. 2:24-7.3, Waiver.

(b) Swarming. A beekeeper shall manage all hives to limit and promptly address swarming using accepted swarm management techniques for the industry, which may include, but are not limited to, providing adequate room for colony growth, splitting, and requeening.

(c) Structure. In accordance with N.J.S.A. 4:6-10, a beekeeper shall keep all hives in manmade structures with removable frames in a sound and usable condition.

(d) Location. A beekeeper shall locate all hives a minimum of 10 feet from any property line and at least 20 feet from any roadside, sidewalk, or path.

1. Hives must be securely placed on level ground or secured on rooftop installations;

2. When hives are located on rooftops, they shall not be less than 20 feet from any area used for outdoor human activity; and

3. Hives are not permitted on balconies of multistory, multifamily dwelling unit buildings.

(e) Flyway barrier. When a colony is located less than 20 feet from any property line, a beekeeper shall establish a flyway barrier at least six feet in height consisting of a solid wall, fence, dense vegetation, or combination thereof that is parallel to the property line and maintain it to extend 10 feet beyond the colony in each direction, except if the property adjoining a colony is undeveloped or agriculturally utilized, when no flyway barrier is required on that side.

1. Notwithstanding this subsection, all flyway barriers must comply with any Federal, State, or local laws, rules, regulations, and/or ordinances.

(f) Water. A beekeeper shall provide all hives with access to adequate sources of water.

(g) Queens. A beekeeper shall select queens from *Apis mellifera* stock bred for gentleness and non-swarmling characteristics. Queens shall be replaced within three weeks if a colony exhibits unusual defensive behavior without due provocation or exhibits an unusual disposition toward swarming.

(h) General maintenance. No bee comb or other materials that might encourage robbing by honey bees or other stinging insects shall be left upon the grounds of the apiary site in suburban and urban environments.

(i) Marking of hives. All beekeepers shall legibly mark hives with the hive identification. This hive identification shall correspond to the information provided in the apiary registration required by N.J.A.C. 2:24-3.1(b).

(j) Access. The beekeeper shall provide access to all apiaries under the beekeeper's control to inspectors from any and all governmental agencies with jurisdiction to enforce this chapter pertaining to the hives, maintenance of the hives, or disease control. Beekeepers will be notified in advance,

where possible and feasible. If the beekeeper cannot be located, notice shall be to the landowner where the apiary is located.

(k) Inspection shall be conducted as follows:

1. The hives may be inspected as needed by the New Jersey State Apiarist or his or her designee; and

2. All colonies shall be managed by the beekeeper for disease and population management control no less than three times between March 1 and October 1 annually.

(l) Violations and enforcement are as follows:

1. A beekeeper who violates N.J.A.C. 2:24-4.1 will be subject to penalties pursuant to N.J.A.C. 2:24-4.1(f). A beekeeper who violates other sections of this chapter shall be subject first to a written warning identifying each offense with written notice of corrective action required. If corrective action is not taken within seven calendar days after the receipt of such a warning, the beekeeper may be subject to a Notice of Violation. Enforcement of a Notice of Violation may include, but is not limited to, required immediate relocation of hive(s) at the beekeeper's expense, and/or revocation of the beekeeper's certificate of registration and his or her ability to keep bees.

i. Written appeals of a Notice of Violation by the beekeeper must be received by the Department, or the applicable governing authority within 25 calendar days after constructive, or actual, receipt of the Notice of Violation by the beekeeper or landowner.

ii. Written appeals of any Notice of Violation issued by the Department should be sent to:

Director
Division of Plant Industry
New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625

iii. Written appeals of any Notice of Violation issued by a governing authority shall be sent to the address provided in the Notice of Violation.

2. In instances where the State Apiarist is not the official issuing the Notice of Violation, enforcement of the Notice of Violation, if appealed, shall be stayed pending the adjudicative process, unless the State Apiarist, or his or her designee, determines a stay is unnecessary pending the appeal process.

3. Denial or revocation of registration. The Department, shall deny or revoke the certificate of registration provided pursuant to N.J.A.C. 2:24-3.1 to any registered beekeeper who does not meet the requirements of this section. A written letter of denial stating the reason(s) for the denial and/or revocation of the registration will be issued by the Department.

i. Where a governing authority has authority pursuant to P.L. 2015, c. 76, the governing authority may request the Department take action to revoke and/or deny a certification pursuant to this subsection.

4. Appeal of denials or revocations. Beekeeper applicants who have been denied a registration or whose certificate of registration has been denied or revoked may appeal the denial to the Department.

i. Written appeals must be received by the Department within 25 days of the date on the letter of denial or revocation received by the applicant.

ii. Written appeals should be sent to:

Director, Division of Plant Industry
New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625-0330

2:24-7.3 Waiver

(a) A person desirous of owning and maintaining hives in a number greater than is provided for pursuant to N.J.A.C. 2:24-7.2 may apply to the governing authority for a colony density waiver.

(b) The applicant shall obtain a certified list of the names and addresses of all property owners within 200 feet of the apiary site(s) from the municipality's tax assessor's office.

(c) A copy of the application for colony density waiver must be provided to all property owners within 200 feet in all directions of the applicant's property by certified mail and by regular mail. Notice to a partnership owner may be made by certified mail, and by regular mail to any partner. Notice to a corporate owner may be made by certified mail, and by regular mail to its president, a vice president, secretary, or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust, or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property that is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas. Notice shall be mailed no less than 10 days prior to the scheduled date of the hearing. Proof of service to the appropriate property owners shall be presented to the governing authority at the time of the hearing.

(d) The application to the governing authority shall set forth the following:

1. The name and address of the applicant;
2. The address, lot, and block number of the property at which the applicant intends to maintain the hive(s);

3. If the property where the applicant intends to maintain the hive(s) is owned by another individual, express written consent by the property owner;

4. The nature of the waiver requested, setting forth the number of the proposed hives in excess of those allowed pursuant to N.J.A.C. 2:24-7.2(a);

5. A description of flyway barriers (if any);

6. Zoning district of the property where the hives are proposed to be kept; and

7. A description of the reason(s) the applicant seeks a waiver of colony density; and

8. The date, time, and place of the hearing before the governing authority.

(e) The governing authority may grant or deny an application for a waiver based upon a preponderance of evidence that the applicant has demonstrated good cause for the granting of such waiver. In examining whether or not a waiver should be granted, the following facts shall be considered:

1. The size of the property where the applicant proposes to keep hive(s);

2. The distance between the location of where the hive(s) is/are intended to be kept and the physical location of adjacent property owners' homes or dwelling units;

3. Whether the property where the hives are proposed to be kept is fenced to provide a particular type of required flyway barrier;

4. Whether the hive(s) for which the waiver is requested is/are the first hive(s) or are an addition to existing hive(s) on the applicant's property;

5. The prior history of complaints against the applicant for violation of this subchapter;

6. The zoning district of the property where the hives are proposed to be kept;

7. Whether the hive(s) serve some business purpose or the hive(s) are to be kept as a hobby; and

8. Other such facts as the governing authority may believe appropriate to consider according to the case and circumstances presented at the time the application is heard.

(f) Should the applicant's request for a colony density waiver be granted, the governing authority shall set the number of proposed hive(s) permitted, based on the specific facts of the situation at issue.

(g) A colony density waiver granted by the governing authority may be revoked upon proper application to the governing authority by a landowner with a particularized property interest in the hive(s) subject to a colony density waiver issued pursuant to N.J.A.C. 2:24-7.2(a). For the purposes of this subsection, a landowner with a particular property inter-

est is any landowner within 200 feet of the applicable hive(s). An application must:

1. Address the facts in (e)1 through 8 above;
2. Be made by a person who certifies that he or she resides within, or owns property in, the municipality or within 200 feet of the hive(s) where the colony density waiver applies; and
3. Include certification of notice served upon the beekeeper to all landowners within 200 feet of the hive(s) by regular and certified mail of the application for revocation of the colony density waiver.

(h) The notice shall include a factual basis for the requested revocation, including a description of the compelling particularized property right of the landowner.

(i) A hearing shall be held by the governing authority on the application for revocation. The governing authority will evaluate the application for revocation of the colony density waiver based upon the same criteria set forth in this section.

(j) Any landowner served with notice of the application to revoke a colony density waiver, who may also have reason to request revocation of a colony density waiver, must join in the original action, or he or she shall be barred from bringing an action to revoke the same colony density waiver, for the period of one year.

(k) No colony density waiver shall be granted unless the beekeeper has submitted to the governing authority an inspection report from the State Apiarist, or his or her designee. The inspection report shall be submitted with the request for a colony density waiver application but no later than the hearing date scheduled for the colony density waiver application hearing.

(l) The granting of a colony density waiver shall in no way authorize the creation of an unhealthy condition and shall in no way affect the general standards upon the keeping of hive(s) as set forth in this chapter.

2:24-7.4 Administrative standards for delegated municipalities

(a) Pursuant to P.L. 2015, c. 76, a municipality may pass an ordinance to adopt by reference these apiary standards (this chapter) promulgated by the Department. The ordinance shall designate the municipal office responsible for monitoring these standards.

(b) Municipalities must provide the Department copies of such ordinance(s) two weeks in advance of formal consideration of such ordinances.

(c) If a municipality that has assumed responsibility of monitoring and enforcement of this chapter finds there is a condition or circumstance in the municipality that is not resolved by this chapter, the municipality shall request guidance from the Department. The Department shall provide guidance no later than 90 days after the request is received.

1. Upon expiration of the 90-day period, the municipality, if it has consulted with the Department, the New Jersey League of Municipalities, the New Jersey Beekeepers Association, and the Mid-Atlantic Apiculture Research and Extension Consortium, or successor organizations with similar purposes, may adopt by ordinance a standard to address the condition or circumstance, provided that the standard reflects consideration of population density, the density and intensity of development, type of land use, and honey bee biology and behavior.

(d) Upon adoption by reference of the Department standards by municipal ordinance with actual notice to the Department, the Department shall provide the municipality with a list of registered beekeepers in the municipality pursuant to N.J.A.C. 2:24-3.1(k) and communicate to the municipality the delegation of regulatory authority to monitor and enforce apiary activities and registrant compliance with the standards.

(e) The Department shall annually submit to each municipality with authority delegated pursuant to this section, a listing of each registered bee yard, beekeeper, and the property owner, if the owner is not the beekeeper, in that municipality, including the number of bee yards registered, hives per bee yard, and bee yard(s) location(s). The listing for the current year will be provided by March 31.

(f) Covering the period between February 15 and October 15 annually, municipalities with delegated regulatory authority shall submit reports of apiary activity to the Department, as follows:

1. The municipality shall submit reports to the Department by May 31, August 30, and October 30;
2. Reports shall contain the following:
 - i. Number of registration applications incorrectly sent to the municipality and forwarded to the Department;
 - ii. Number and type of complaints from residents including complaints of swarms and/or disruptive contact of honey bees with swimming pools;
 - iii. Number of monitoring inspections by the municipality; and
 - iv. Number and type of enforcement actions taken.

seek the services of a beekeeper/swarm collector specializing in collecting colonies or swarms from inside structures in non-hazardous situations;

2. The State Apiarist, or his or her representatives in the elimination of diseased colonies found during inspection activities;

3. Honey bee colonies destroyed by a beekeeper/owner in the elimination of diseased colonies found during inspection or normal apiary management activities; or

4. Commercial pesticide applications performed at the direction of the United States Department of Agriculture Animal and Plant Health Inspection Service or the United States Customs and Border Protection for the elimination of suspect Africanized honey bees or other foreign species of the genus *Apis*.

2:24-6.4 Penalties

(a) Any person who intentionally destroys a man-made honey bee hive or hanging swarm without the approval required under this subchapter shall be liable to a civil penalty of up to \$1,000 for each offense.

(b) Any person who intentionally destroys a man-made native bee hive shall be liable to a civil penalty of up to \$500.00 for each offense.

(c) The penalties imposed pursuant to (a) and (b) above are to be collected by a summary proceeding under the Penalty Enforcement Law of 1999, P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.), or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and municipal court shall have jurisdiction to enforce the Penalty Enforcement Law of 1999 in connection with this action.

(d) If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. Penalties recovered for violations of this section shall be remitted to the Department of Agriculture and expended on programs to revive honey bee populations in the State.

Amended by R.2019 d.035, effective May 6, 2019.
 Sec: 49 N.J.R. 3565(a), 51 N.J.R. 577(a).
 Rewrote the section.

SUBCHAPTER 7. APIARY AND MUNICIPAL ADMINISTRATIVE STANDARDS FOR BREEDING AND KEEPING OF BEES AND RELATED ACTIVITIES

2:24-7.1 General scope and applicability

(a) This subchapter is not applicable to beekeepers not overwintering any hives, migratory commercial beekeepers, or commercial beekeepers.

(b) This subchapter establishes additional apiary standards for the breeding and keeping of honey bees and related activities, not otherwise contained in this chapter.

(c) Nothing in this subchapter shall be interpreted to supersede the protections afforded by the Right to Farm Act, P.L. 1983, c. 31 (N.J.S.A. 4:1C-1 et seq.), as amended and supplemented, or to create any standards to be applied under that act.

(d) This subchapter establishes standards of administrative procedure for delegating the authority to monitor and enforce the rules adopted pursuant to this subchapter to municipalities.

(e) The apiary standards in this subchapter reflect consideration of the population densities in rural, suburban, and urban areas of the State and the densities and intensities of development and differing land uses in communities throughout the State.

(f) Notwithstanding compliance with this chapter including these apiary standards, it shall be unlawful for any beekeeper to keep any hive or hives in such a manner or of such disposition as to pose a direct threat to:

1. Public health and safety; or
2. Bee health, as determined by the State Apiarist or his or her designee.

2:24-7.2 Apiary standards

(a) Colony density shall be as follows:

1.

Tract of Land Size	Number of Colonies Allowed
up to ¼ Acre	3
½ Acre	6
¾ Acre	9
1 Acre	12
Over 1 acre	3 per ¼ acre not to exceed (a)2 below

2. Notwithstanding (a)1 above, colony density shall not exceed 40 hives per contiguous tract of land.

3. For every two colonies permitted on a tract of land, there may be maintained upon the same tract one nucleus colony with no super attached from March 1st through October 31st. Any additional nucleus colony shall be moved to another location, tract, or combined with a colony on the same property within 90 days after the date made or acquired.

4. A beekeeper may seek permission from the governing authority to keep more hives than permissible under the requirements of this subchapter, by seeking a waiver as provided for under N.J.A.C. 2:24-7.3, Waiver.

(b) Swarming. A beekeeper shall manage all hives to limit and promptly address swarming using accepted swarm management techniques for the industry, which may include, but are not limited to, providing adequate room for colony growth, splitting, and requeening.

(c) Structure. In accordance with N.J.S.A. 4:6-10, a beekeeper shall keep all hives in manmade structures with removable frames in a sound and usable condition.

(d) Location. A beekeeper shall locate all hives a minimum of 10 feet from any property line and at least 20 feet from any roadside, sidewalk, or path.

1. Hives must be securely placed on level ground or secured on rooftop installations;

2. When hives are located on rooftops, they shall not be less than 20 feet from any area used for outdoor human activity; and

3. Hives are not permitted on balconies of multistory, multifamily dwelling unit buildings.

(e) Flyway barrier. When a colony is located less than 20 feet from any property line, a beekeeper shall establish a flyway barrier at least six feet in height consisting of a solid wall, fence, dense vegetation, or combination thereof that is parallel to the property line and maintain it to extend 10 feet beyond the colony in each direction, except if the property adjoining a colony is undeveloped or agriculturally utilized, when no flyway barrier is required on that side.

1. Notwithstanding this subsection, all flyway barriers must comply with any Federal, State, or local laws, rules, regulations, and/or ordinances.

(f) Water. A beekeeper shall provide all hives with access to adequate sources of water.

(g) Queens. A beekeeper shall select queens from *Apis mellifera* stock bred for gentleness and non-swarming characteristics. Queens shall be replaced within three weeks if a colony exhibits unusual defensive behavior without due provocation or exhibits an unusual disposition toward swarming.

(h) General maintenance. No bee comb or other materials that might encourage robbing by honey bees or other stinging insects shall be left upon the grounds of the apiary site in suburban and urban environments.

(i) Marking of hives. All beekeepers shall legibly mark hives with the hive identification. This hive identification shall correspond to the information provided in the apiary registration required by N.J.A.C. 2:24-3.1(b).

(j) Access. The beekeeper shall provide access to all apiaries under the beekeeper's control to inspectors from any and all governmental agencies with jurisdiction to enforce this chapter pertaining to the hives, maintenance of the hives, or disease control. Beekeepers will be notified in advance,

where possible and feasible. If the beekeeper cannot be located, notice shall be to the landowner where the apiary is located.

(k) Inspection shall be conducted as follows:

1. The hives may be inspected as needed by the New Jersey State Apiarist or his or her designee; and

2. All colonies shall be managed by the beekeeper for disease and population management control no less than three times between March 1 and October 1 annually.

(l) Violations and enforcement are as follows:

1. A beekeeper who violates N.J.A.C. 2:24-4.1 will be subject to penalties pursuant to N.J.A.C. 2:24-4.1(f). A beekeeper who violates other sections of this chapter shall be subject first to a written warning identifying each offense with written notice of corrective action required. If corrective action is not taken within seven calendar days after the receipt of such a warning, the beekeeper may be subject to a Notice of Violation. Enforcement of a Notice of Violation may include, but is not limited to, required immediate relocation of hive(s) at the beekeeper's expense, and/or revocation of the beekeeper's certificate of registration and his or her ability to keep bees.

i. Written appeals of a Notice of Violation by the beekeeper must be received by the Department, or the applicable governing authority within 25 calendar days after constructive, or actual, receipt of the Notice of Violation by the beekeeper or landowner.

ii. Written appeals of any Notice of Violation issued by the Department should be sent to:

Director
Division of Plant Industry
New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625

iii. Written appeals of any Notice of Violation issued by a governing authority shall be sent to the address provided in the Notice of Violation.

2. In instances where the State Apiarist is not the official issuing the Notice of Violation, enforcement of the Notice of Violation, if appealed, shall be stayed pending the adjudicative process, unless the State Apiarist, or his or her designee, determines a stay is unnecessary pending the appeal process.

3. Denial or revocation of registration. The Department, shall deny or revoke the certificate of registration provided pursuant to N.J.A.C. 2:24-3.1 to any registered beekeeper who does not meet the requirements of this section. A written letter of denial stating the reason(s) for the denial and/or revocation of the registration will be issued by the Department.

i. Where a governing authority has authority pursuant to P.L. 2015, c. 76, the governing authority may request the Department take action to revoke and/or deny a certification pursuant to this subsection.

4. Appeal of denials or revocations. Beekeeper applicants who have been denied a registration or whose certificate of registration has been denied or revoked may appeal the denial to the Department.

i. Written appeals must be received by the Department within 25 days of the date on the letter of denial or revocation received by the applicant.

ii. Written appeals should be sent to:

Director, Division of Plant Industry
New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625-0330

2:24-7.3 Waiver

(a) A person desirous of owning and maintaining hives in a number greater than is provided for pursuant to N.J.A.C. 2:24-7.2 may apply to the governing authority for a colony density waiver.

(b) The applicant shall obtain a certified list of the names and addresses of all property owners within 200 feet of the apiary site(s) from the municipality's tax assessor's office.

(c) A copy of the application for colony density waiver must be provided to all property owners within 200 feet in all directions of the applicant's property by certified mail and by regular mail. Notice to a partnership owner may be made by certified mail, and by regular mail to any partner. Notice to a corporate owner may be made by certified mail, and by regular mail to its president, a vice president, secretary, or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust, or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property that is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas. Notice shall be mailed no less than 10 days prior to the scheduled date of the hearing. Proof of service to the appropriate property owners shall be presented to the governing authority at the time of the hearing.

(d) The application to the governing authority shall set forth the following:

1. The name and address of the applicant;
2. The address, lot, and block number of the property at which the applicant intends to maintain the hive(s);

3. If the property where the applicant intends to maintain the hive(s) is owned by another individual, express written consent by the property owner;

4. The nature of the waiver requested, setting forth the number of the proposed hives in excess of those allowed pursuant to N.J.A.C. 2:24-7.2(a);

5. A description of flyway barriers (if any);

6. Zoning district of the property where the hives are proposed to be kept; and

7. A description of the reason(s) the applicant seeks a waiver of colony density; and

8. The date, time, and place of the hearing before the governing authority.

(e) The governing authority may grant or deny an application for a waiver based upon a preponderance of evidence that the applicant has demonstrated good cause for the granting of such waiver. In examining whether or not a waiver should be granted, the following facts shall be considered:

1. The size of the property where the applicant proposes to keep hive(s);

2. The distance between the location of where the hive(s) is/are intended to be kept and the physical location of adjacent property owners' homes or dwelling units;

3. Whether the property where the hives are proposed to be kept is fenced to provide a particular type of required flyway barrier;

4. Whether the hive(s) for which the waiver is requested is/are the first hive(s) or are an addition to existing hive(s) on the applicant's property;

5. The prior history of complaints against the applicant for violation of this subchapter;

6. The zoning district of the property where the hives are proposed to be kept;

7. Whether the hive(s) serve some business purpose or the hive(s) are to be kept as a hobby; and

8. Other such facts as the governing authority may believe appropriate to consider according to the case and circumstances presented at the time the application is heard.

(f) Should the applicant's request for a colony density waiver be granted, the governing authority shall set the number of proposed hive(s) permitted, based on the specific facts of the situation at issue.

(g) A colony density waiver granted by the governing authority may be revoked upon proper application to the governing authority by a landowner with a particularized property interest in the hive(s) subject to a colony density waiver issued pursuant to N.J.A.C. 2:24-7.2(a). For the purposes of this subsection, a landowner with a particular property inter-

est is any landowner within 200 feet of the applicable hive(s). An application must:

1. Address the facts in (e)1 through 8 above;
 2. Be made by a person who certifies that he or she resides within, or owns property in, the municipality or within 200 feet of the hive(s) where the colony density waiver applies; and
 3. Include certification of notice served upon the beekeeper to all landowners within 200 feet of the hive(s) by regular and certified mail of the application for revocation of the colony density waiver.
- (h) The notice shall include a factual basis for the requested revocation, including a description of the compelling particularized property right of the landowner.
- (i) A hearing shall be held by the governing authority on the application for revocation. The governing authority will evaluate the application for revocation of the colony density waiver based upon the same criteria set forth in this section.
- (j) Any landowner served with notice of the application to revoke a colony density waiver, who may also have reason to request revocation of a colony density waiver, must join in the original action, or he or she shall be barred from bringing an action to revoke the same colony density waiver, for the period of one year.
- (k) No colony density waiver shall be granted unless the beekeeper has submitted to the governing authority an inspection report from the State Apiarist, or his or her designee. The inspection report shall be submitted with the request for a colony density waiver application but no later than the hearing date scheduled for the colony density waiver application hearing.
- (l) The granting of a colony density waiver shall in no way authorize the creation of an unhealthy condition and shall in no way affect the general standards upon the keeping of hive(s) as set forth in this chapter.

2:24-7.4 Administrative standards for delegated municipalities

- (a) Pursuant to P.L. 2015, c. 76, a municipality may pass an ordinance to adopt by reference these apiary standards (this chapter) promulgated by the Department. The ordinance shall designate the municipal office responsible for monitoring these standards.
- (b) Municipalities must provide the Department copies of such ordinance(s) two weeks in advance of formal consideration of such ordinances.

(c) If a municipality that has assumed responsibility of monitoring and enforcement of this chapter finds there is a condition or circumstance in the municipality that is not resolved by this chapter, the municipality shall request guidance from the Department. The Department shall provide guidance no later than 90 days after the request is received.

1. Upon expiration of the 90-day period, the municipality, if it has consulted with the Department, the New Jersey League of Municipalities, the New Jersey Beekeepers Association, and the Mid-Atlantic Apiculture Research and Extension Consortium, or successor organizations with similar purposes, may adopt by ordinance a standard to address the condition or circumstance, provided that the standard reflects consideration of population density, the density and intensity of development, type of land use, and honey bee biology and behavior.

(d) Upon adoption by reference of the Department standards by municipal ordinance with actual notice to the Department, the Department shall provide the municipality with a list of registered beekeepers in the municipality pursuant to N.J.A.C. 2:24-3.1(k) and communicate to the municipality the delegation of regulatory authority to monitor and enforce apiary activities and registrant compliance with the standards.

(e) The Department shall annually submit to each municipality with authority delegated pursuant to this section, a listing of each registered bee yard, beekeeper, and the property owner, if the owner is not the beekeeper, in that municipality, including the number of bee yards registered, hives per bee yard, and bee yard(s) location(s). The listing for the current year will be provided by March 31.

(f) Covering the period between February 15 and October 15 annually, municipalities with delegated regulatory authority shall submit reports of apiary activity to the Department, as follows:

1. The municipality shall submit reports to the Department by May 31, August 30, and October 30;
2. Reports shall contain the following:
 - i. Number of registration applications incorrectly sent to the municipality and forwarded to the Department;
 - ii. Number and type of complaints from residents including complaints of swarms and/or disruptive contact of honey bees with swimming pools;
 - iii. Number of monitoring inspections by the municipality; and
 - iv. Number and type of enforcement actions taken.