

Full text of the proposed substantial changes to the proposed amendments and new rules follows (additions to proposal indicated in italicized boldface *thus*, deletions from proposal indicated in italicized cursive brackets {*thus*}):

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.

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

“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.

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

“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 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.

“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.

“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.

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, e-mail 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 (the effective date of this new rule); 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 nontransferable 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.

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.

PROPOSALS

(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
1/4 Acre	3
1/2 Acre	6
3/4 Acre	9
1 Acre	12
Over 1 acre	3 per 1/4 acre not to exceed N.J.A.C. 2:24-7.2(a)(2)

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.

ENVIRONMENTAL PROTECTION

(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:

(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 interest 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

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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) (No change from proposal.) 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 of registrant reports of diseases of bees to the municipality and forwarded to the Department.