

**MONTANA DEPARTMENT OF AGRICULTURE
AGRICULTURAL SCIENCES DIVISION
HELENA, MONTANA**

**ADMINISTRATIVE RULES
CHAPTER 12- AGRICULTURE
SUBCHAPTER 1 – APICULTURE
RULES 4.12.101 THROUGH 4.12.113**

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The Administrative Rules of Montana may be found on the internet:
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**SUBCHAPTER 1
APICULTURE RULES**

ARM	CONTENTS	PAGE NO.
4.12.101	REGISTRATION OF APIARIES AND LIMITATIONS OF REGISTRATION	2
4.12.102	APIARY, LOCATED BY PERMISSION	2
4.12.103	NEW LOCATIONS OF APIARIES	2
4.12.104	LIMITATIONS OF COLONIES	2
4.12.105	DELINEATING HONEY PRODUCING SEASONS AND REGISTRATION PERIODS	2
4.12.106	INSPECTION OF APIARY EQUIPMENT	3
4.12.107	INSPECTION OF PESTICIDES DAMAGES	3
4.12.108	HOURLY INSPECTION FEE	3
4.12.109	CIVIL PENEALTIES –ENFORCEMENT	4
4.12.110	CIVIL PENALTIES- MATRIX	4
4.12.111	REGULATED BEE DISEASES	5
4.12.112	DEFINITIONS	5
4.12.113	REGISTRATION AND CERTIFICATION FEES – APIARY FEES	6

Subchapter 1 Apiculture Rules

4.12.101 REGISTRATION OF APIARIES AND LIMITATIONS OF REGISTRATION (REPEALED)

History: Sec. 80-6-301 and 80-6-201 MCA, IMP, Sec. 80-6-102 and 80-6-201 MCA; NEW, Eff. 12/31/72; AMD, Eff. 2/3/75; AMD, 1978 MAR p. 1358, Eff. 9/15/78; REP, 1993 MAR p. 2120, Eff. 9/17/93.

4.12.102 APIARY, LOCATED BY PERMISSION

(1) Persons registering a new location for the first time must have the approval signature of the landowner or manager indicating that the beekeeper has obtained the permission to place an apiary on the landowner's property. When a registered site is transferred to another beekeeper, landowner or manager signature must be obtained and filed with the department.

(2) Upon notice from a landowner or land manager that a beekeeper is no longer allowed access to their property or allowed to maintain bees on the property, the department will cancel the registration and notify the beekeeper.

(3) Once a site registration has been cancelled, any placement of new bees on the site must first be registered with the department. A new site registration will only be granted if the site registration does not conflict with an existing registered site within a three mile radius.

History: 80-6-102, MCA; IMP, 80-6-102, 80-6-103, MCA; NEW, Eff. 12/31/72; AMD, Eff. 2/3/75; AMD, 2010 MAR p. 2650, Eff. 11/13/10.

4.12.103 NEW LOCATIONS OF APIARIES

(1) All registered apiaries likely to be affected by a proposed new location includes only those apiaries which have registered locations within a three (3) mile radius of the proposed new location, unless deemed otherwise by the department of agriculture.

History: Sec. 80-6-301 MCA; IMP, Sec. 80-6-103 MCA; NEW, Eff. 12/31/72; AMD, Eff. 2/3/75.

4.12.104 LIMITATIONS OF COLONIES

(1) All registered bee locations must consist of no less than ten (10) colonies of bees during a minimum of ten (10) days during any part of normal buildup or honey producing period of the year. This regulation shall not apply to beekeepers who own a total of less than ten (10) colonies of bees registered in only one apiary.

History: Sec. 80-6-301 MCA; IMP, 80-6-104 MCA; NEW, Eff. 12/31/72; AMD, Eff. 2/3/75.

4.12.105 DELINEATING HONEY PRODUCING SEASONS AND REGISTRATION PERIODS

(1) The normal buildup or honey producing season shall consist of the months of April through September.

(2) The regular registration time shall consist of the months of February through April.

(3) The procedure to void the registration of an apiary because of non-use shall be as follows:

- (a) A written request to void the registration of an apiary because of non-use, and related evidence, must be submitted to the department between October 1 and January 31, during the same registration year that the apiary was not in use.

(b) The evidence must include, but is not limited to signed statements from the landowner indicating that there were no bee hives in the apiary during the last buildup or honey producing season. Landowners are as defined in 80-6-101 (12) MCA. However, the department may consider other evidence based upon its own investigation.

(c) The department shall follow contested case provisions of the Montana Administrative Procedure Act when determining if an apiary registration is to be voided because of non-use.

History: Sec. 80-6-301 and 80-6-201 MCA; IMP, Sec. 80-6-102 and 80-6-104 MCA; NEW, Eff. 12/31/72; AMD, Eff. 2/3/75; AMD, 1993 MAR p. 2120, Eff. 9/17/93.

4.12.106 INSPECTION OF APIARY EQUIPMENT

(1) All used beekeeping equipment to be shipped out of state, including frames of honey in the comb, must be inspected before a clean bill of health can be issued.

(2) No permits for interstate movement of health certificates will be issued without inspection.

(3) Inspection must be made while the equipment is still "on the bees", and while brood is present within the hive.

(4) The Department of Agriculture must have at least two weeks notice and preferably more, during the rush season of spring and early fall for the need of an inspection. No inspection will be scheduled if received later than September 15, except in extreme emergencies.

(5) Beekeepers requesting inspection will accompany inspector during inspection, and will pull and replace one comb from each broodnest.

(6) Intention to bring into Montana used beekeeping equipment, including nucs, feed honey, and refuse for rendering must be registered with the Agricultural Sciences Division, Department of Agriculture at least ten days prior to the time of movement. A permit to enter will then be issued by the Department of Agriculture. This permit, along with a copy of the clean bill of health from the state of origin, must accompany the load of bees or equipment entering Montana. Each load of used equipment, honey, or nucs is automatically quarantined until said quarantine is lifted by the Montana state inspector.

History: 80-6-102, 80-6-202, MCA; IMP, 80-6-102, 80-6-202, MCA; NEW, Eff. 12/31/72; AMD, Eff. 2/3/75; AMD, 2010 MAR p. 2650, Eff. 11/13/10.

4.12.107 INSPECTION OF PESTICIDES DAMAGES

(1) The department of agriculture may charge the actual costs of inspection of hives to determine the degree of pesticide damage.

History: Sec. 80-6-301 MCA; IMP, Sec. 80-6-202 MCA; NEW, Eff. 12/31/72; AMD, Eff. 2/3/75.

4.12.108 HOURLY INSPECTION FEE

(1) The hourly inspection fee authorized in 80-6-202, MCA shall be \$42 per hour for actual inspection time. The fee shall be charged from the time the inspection begins on site until the inspection is completed at the final site. Travel time shall not be included except for that between apiary sites.

(2) The hourly inspection fee for interstate inspections authorized in 80-6-202 (4)(b)(iii), MCA shall be \$50 per hour for actual inspection time. Actual inspection time includes travel to, between, and return from the inspection site.

History: 80-6-202, MCA; IMP, 80-6-202, MCA; NEW, 1991 MAR p. 1272, Eff. 7/26/91; AMD, 2010 MAR p. 2650, Eff. 11/13/10.)

4.12.109 CIVIL PENALTIES – ENFORCEMENT

(1) Whenever the department has reason to believe that a violation of Title 80, chapter 6, parts 1 through 3, MCA, or any adopted rule thereunder has occurred and the department finds it in the public interest to assess a civil penalty, it may initiate a civil penalty action pursuant to the Administrative Procedure Act.

(2) Each violation shall be considered a separate offense and is subject to a separate penalty not to exceed \$1,000. A repeat violation shall be considered a first violation if it occurred two or more years after the previous violation.

(3) The penalty matrixes set forth in this rule establish the basic penalty value for each offense. Factors dealing with the violation may cause the matrix penalty to increase or decrease. Examples of such factors would be the firm's history of compliance or non-compliance, or the extent of the harm to agriculture or environment.

History: Sec. 80-6-201 MCA; IMP, 80-6-303 MCA; NEW, 1993 MAR p. 2120, Eff. 9/17/93.

4.12.110 CIVIL PENALTIES – MATRIX

<u>Type of Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>Subsequent Offense</u>
Failure to register an apiary after notification of requirement. Each unregistered apiary may be considered a separate offense.	\$500	\$800	\$1,000
Falsifying or misrepresenting information submitted with apiary registration application.	\$500	\$800	\$1,000
Failure to move an illegally placed apiary to a registered or registrable site after notice. Each apiary may be considered a separate offense.	\$800	\$1,000	\$1,000
Failure to abate bee diseases or pests pursuant to <u>80-6-201</u> , MCA after notice.	\$800	\$1,000	\$1,000
Failure to meet bee hive importation requirements specified in <u>80-6-202</u> , MCA.	\$5,000	\$7,500	\$10,000

History: 80-6-201, 80-6-303, MCA; IMP, 80-6-303, MCA; NEW, 1993 MAR p. 2120, Eff. 9/17/93; AMD, 2010 MAR p. 2650, Eff. 11/13/10.

4.12.111 REGULATED BEE DISEASES

(1) Bee diseases and pests regulated under Title 80, chapter 6, parts 1 through 3, MCA, are as follows:

- (a) American Foulbrood (*Bacillus larvae*);
- (b) Africanized bees (*Apis mellifera scutellata*);
- (c) Cape bees (*Apis mellifera capensis*);
- (d) Tropilaelaps mites (*Tropilaelaps clareae*, *T. koenigerum*, *T. thaii*, and *T. mercedesae*); and
- (e) Small-hive beetle (*Aethina tumida*).

(2) The department may conduct inspections for other bee diseases for export certification purposes based on requirements of destination states.

History: 80-6-101, 80-6-201, MCA; IMP, 80-6-101, 80-6-201, MCA; NEW, 1993 MAR p. 2120, Eff. 9/17/93; AMD, 2010 MAR p. 2650, Eff. 11/13/10.

4.12.112 DEFINITIONS

(1) "Beekeeper without a valid Montana Certificate of Health" means any beekeeper that has not been inspected within the last four years by either a Montana Department of Agriculture inspector or by appropriate authorities in another state that is recognized as able to issue a certificate of health by the Montana Department of Agriculture.

(2) "Interstate Inspection" means the inspection of an operation that does not have a valid Montana certificate of health or proof of inspection from an originating state.

(3) "Landowner Notice to Change Apiarist" means the cancellation of a registered site upon notice to the department by a landowner that an apiarist is no longer allowed access to their property or to have bees on their property.

(4) "Montana Department of Agriculture Inspection" means a health inspection of a business that includes counting hives, checking for proof of ownership, and opening hives. Minimally, an inspection will include examination of at least one frame of brood for regulated diseases and pests as specified in ARM 4.12.111.

(5) "Registered Beekeeper" means a beekeeper who has paid and maintained registration of at least one apiary site with the Montana Department of Agriculture.

(6) "Registered Site" means a site that has been registered with the Montana Department of Agriculture. A registered site is not a property interest in the land and does not in and of itself allow an apiarist to have bees at a location. A separate agreement from the landowner or an easement is still required to use and access the location.

(7) "Site Registration" means the legal ability, as defined by the department, to have and maintain bees on a site.

(8) "Unregistered Beekeeper" means any beekeeper not registered with the Montana Department of Agriculture, including hobbyist beekeepers, landowners, or general beekeepers.

(9) "Valid Certificate of Health" means proof of an inspection by either the Montana Department of Agriculture or an apiary inspection or proof of an inspection by an official inspector in another state with an inspection program recognized by the Montana Department of Agriculture.

History: 80-6-101, MCA; IMP, 80-6-101, MCA; NEW, 2010 MAR p. 2650, Eff. 11/13/10.

4.12.113 REGISTRATION AND CERTIFICATION FEES-APIARY FEES

(1) The application fee for owners or applicants not currently registered in the department's apiary database is \$20. The new application fee is due at the time the owner or applicant submits a registration for an apiary site. The application fee is in addition to all apiary site registration fees due annually. Site registration will not be issued until the new application and site registration fees are paid.

(2) The registration or reregistration fee for an apiary site is \$19 per site.

(3) The fee for issuance of a certificate of health (certificate of inspection) is \$125. The fee for a certificate of health must be paid at the time of the request for a certificate of health.

History: 80-6-102, 80-6-106, 80-6-202, MCA; IMP, 80-6-102, 80-6-106, 80-6-202, MCA; NEW, 2010 MAR p. 2650, Eff. 11/13/10; AMD, 2015 MAR p. 299, Eff. 3/27/15.

