

CHAPTER 60

ASBESTOS LICENSES AND PERMITS

Authority

N.J.S.A. 34:5A-32 et seq., specifically, 34:5A-39.

Source and Effective Date

R.2005 d.415, effective October 27, 2005.
See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Chapter Expiration Date

Chapter 60, Asbestos Licenses and Permits, expires on October 27, 2010.

Chapter Historical Note

Chapter 60, Asbestos Licensing and Permits, was adopted as Emergency New Rules by R.1985 d.144, effective March 4, 1985, to expire May 3, 1985. See: 17 N.J.R. 741(a). The provisions of R.1985 d.144 were readopted as R.1985 d.262, effective May 3, 1985. See: 17 N.J.R. 741(a), 17 N.J.R. 1417(b).

Subchapter 1, General Provisions, Subchapter 3, Administration, Subchapter 4, Licensing of Employers, Subchapter 5, Requirements and Procedures for Obtaining an Asbestos Worker or an Asbestos Supervisor Permit, and Subchapter 7, Standards and Publications Referred to in this Chapter, were adopted as Emergency New Rules by R.1985 d.361, effective June 18, 1985, to expire August 18, 1985. See: 17 N.J.R. 1676(a). The provisions of R.1985 d.361 were readopted as R.1985 d.468, effective August 16, 1985. See: 17 N.J.R. 1676(a), 17 N.J.R. 2275(a).

Pursuant to Executive Order No. 66 (1978), Chapter 60, Asbestos Licenses and Permits, was readopted as R.1990 d.278, effective May 3, 1990. Subchapter 7, Asbestos Work Notification Requirements, was adopted as new rules and Subchapter 7, Standards and Publication Referred to in this Chapter, was recodified as Subchapter 8, Standards and Publications Referred to in this Chapter, by R.1990 d.278, effective June 4, 1990. See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Pursuant to Executive Order No. 66(1978), Chapter 60, Asbestos Licenses and Permits, was readopted as R.1995 d.193, effective March 13, 1995. Subchapter 8, Appeals and Complaints, was adopted as new rules and Subchapter 8, Standards and Publications Referred to in this Chapter, was recodified as Subchapter 9, Standards and Publications Referred to in this Chapter, by R.1995 d.193, effective April 3, 1995. See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Pursuant to Executive Order No. 66(1978), Chapter 60, Asbestos Licenses and Permits, expired on March 13, 2000.

Chapter 60, Asbestos Licenses and Permits, was adopted as new rules by R.2000 d.176, effective May 1, 2000. See: 32 N.J.R. 347(a), 32 N.J.R. 1515(a).

Administrative Change: Pursuant to Reorganization Plan 002-2002, in Chapter 60, Asbestos Licensing and Permits, cross-references are changed to the Department of Labor and 12:120. See: 34 N.J.R. 4245(a), 35 N.J.R. 1275(a).

Chapter 60, Asbestos Licenses and Permits, was readopted by R.2005 d.415, effective October 27, 2005. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

8:60-1.1 Title and citation

(a) This chapter, as a Department of Labor and Workforce Development rule, shall be known and may be cited as N.J.A.C. 12:120, Asbestos Licenses and Permits.

(b) This chapter, as a Department of Health and Senior Services rule, shall be known as and may be cited as N.J.A.C. 8:60, Asbestos Licenses and Permits.

(c) These rules are a joint adoption of the Department of Labor and Workforce Development and the Department of Health and Senior Services.

Amended by R.1986 d.149, effective May 5, 1986.

See: 18 N.J.R. 156(a), 18 N.J.R. 986(a).

Old text deleted and new text substituted.

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

In (a) and (c), added "and Workforce Development."

8:60-1.2 Authority

These rules are promulgated pursuant to the authority of the Asbestos Control and Licensing Act, N.J.S.A. 34:5A-32 et seq.

8:60-1.3 Purpose

(a) The purpose of this chapter is to provide reasonable standards for:

1. Licensing of employers;
2. Permitting of workers;
3. Permitting of supervisors; and
4. Certifying of training agencies and courses for the above job classifications.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Deleted (a)3 and added new (a)3 and 4.

8:60-1.4 Scope

(a) This chapter shall apply to:

1. Licensing of employers;
2. Training, examination and issuance of permits to workers;

3. Training, examination and issuance of permits to supervisors;

4. Certifying of training agencies and courses for the above job classifications;

5. Employers having a contractual relationship for asbestos work with the owner of a building or structure or equipment for the application, enclosure, encapsulation, repair, or removal of asbestos-containing material; and

6. Any public or private building, structure or equipment on which asbestos work is performed, except as provided in (b) below.

(b) This chapter shall not apply to:

1. The limited repair of asbestos-containing material on any pipe, duct, boiler, tank, structural member or similar equipment by the application of duct tape, rewettable glass cloth, canvas, cement or other sealable material to seal exposed areas from which asbestos fibers may be released;

2. The stripping, limited repair, or removal of three feet or less of asbestos-containing material from piping;

3. The stripping, limited repair or removal of three square feet or less of asbestos-containing material from any duct, boiler, tank, structural member, or similar equipment;

4. The sale or storage of asbestos;

5. The application, enclosure, encapsulation, repair, or removal of asbestos-containing roofing and exterior siding materials in all but demolition projects;

6. The licensure of private employers subject to the Federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq., using their own employees to apply, enclose, encapsulate, repair or remove asbestos-containing material in their own facility; or

7. The permitting of employees subject to the Federal Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq., who apply, enclose, encapsulate, repair or remove asbestos-containing materials in their employer's own facility.

Amended by R.1989 d.247, effective May 15, 1989.

See: 20 N.J.R. 1049(a), 21 N.J.R. 1333(b).

Roofing and exterior siding materials exempted from provisions of N.J.A.C. 8:60.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Added (a)4, changed "asbestos" to "asbestos-containing material," added (b)6.

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Case Notes

Asbestos rules preempted by Occupational Safety & Health (OSHA) with respect to education and training in the workplace; balance of N.J. asbestos program was preempted as not severable, and because OSHA rejected rules similar to New Jersey's program. *New Jersey State Chamber of Commerce v. State of New Jersey*, 653 F.Supp. 1453 (D.N.J.1987).

8:60-1.5 Documents referred to by reference

The availability of standards and publications referred to in this chapter is set forth at N.J.A.C. 12:120-9 and 8:60-9.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

References corrected.

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

8:60-1.6 Validity

If any section, paragraph, sentence or word of this chapter is determined to be invalid by any court of competent jurisdiction, such determination shall not affect or impair the validity of the remainder of this chapter.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Determination of invalidity to be made by court of competent jurisdiction.

SUBCHAPTER 2. DEFINITIONS**8:60-2.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Accepted engineering practices” means those practices which conform to accepted principles, tests, or standards of nationally recognized technical or scientific authorities.

“Act” means the Asbestos Control and Licensing Act, N.J.S.A. 34:5A-32 et seq.

“Applicant” means any person seeking to obtain either an asbestos abatement worker permit, an asbestos abatement supervisor permit or an employer license, or an agency seeking certification to conduct asbestos abatement training.

“Approved” means acceptable to the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services, as the case may be.

“Asbestos” means the asbestiform varieties of chrysotile; crocidolite; amosite; anthophyllite; tremolite; or actinolite and includes any asbestos-containing material.

“Asbestos-containing material” (ACM) means any material containing more than one percent asbestos which has been applied on any ceiling, wall, duct, boiler, tank, pipe, structural member, or on any other part of a building or equipment.

“Asbestos work” means the application, enclosure, encapsulation, repair, or removal of asbestos-containing material.

“Certificant” means any training agency certified by the Department of Health and Senior Services pursuant to N.J.A.C. 8:60-6 and 12:120-6.

“C.F.R.” means the Code of Federal Regulations.

“Commissioner” means the Commissioner of Labor and Workforce Development or his or her authorized designee.

“Commissioner of Health” means the Commissioner of Health and Senior Services or his or her authorized designee.

“Contractor” means an employer who hires workers and supervisors to perform asbestos work or who performs the asbestos work directly.

“Control” means to exercise restraint or direction over any activity concerning asbestos for the purpose of reducing the number of airborne asbestos fibers.

“Department of Health and Senior Services” means the Environmental Health Services of the New Jersey Department of Health and Senior Services, PO Box 360, Trenton, N.J. 08625-0360.

“Division of Public Safety and Occupational Safety and Health” means the Division of Public Safety and Occupational Safety and Health of the New Jersey Department of Labor and Workforce Development, PO Box 386, Trenton, New Jersey, 08625-0386.

“Employee” means:

1. Any person including supervisory personnel suffered or permitted to work by an employer; or

2. A member of either a board, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity directly performing asbestos work.

“Employer” means a body, board, person, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity employing, permitting or suffering another to work or directly performing the asbestos work. In the case of a corporation, the officers of the corporation and any agents having the management of the corporation shall be deemed to be employers of the employees of the corporation for the purposes of this Act. This term shall apply to private employers and to the State, its political subdivisions and any boards, commissions, schools, institutions or authorities created or recognized thereby. This term also includes contractors and subcontractors.

“Facility” means any building or structure.

“f/cc” means fibers per cubic centimeter.

“Friable” means asbestos-containing material that when dry may be crumbled, pulverized or reduced to powder by hand pressure, and includes previously non-friable asbestos-containing material after that material becomes damaged to

the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

“Instructor” means any person(s) hired by a training agency and approved by the Department of Health and Senior Services for the purpose of instructing a Department of Health and Senior Services approved asbestos training course.

“Interactive/participatory teaching method” means instruction which consists of active participation of the trainees, such as brainstorming, hands-on training, demonstration and practice, small group problem solving, discussions, problem posing, group work assignments, question and answer periods and role-playing sessions. Lecture is not considered an interactive participatory teaching method.

“License” means a certificate documenting acceptance by the Commissioner of an employer as competent to perform the application, enclosure, encapsulation, repair, or removal of asbestos-containing material and to bid for or to contract to perform such work.

“Limited repair” means the utilization of accepted engineering practices to minimize fiber release to return three linear feet or less or to return three square feet or less of damaged asbestos-containing material on any pipe, duct, boiler, tank, structural member or similar equipment to an undamaged condition or to an intact state by the application of duct tape, rewettable glass cloth, canvas, cement or other sealable material to seal exposed areas from which asbestos fibers may be released.

“May” indicates a discretionary action.

“N.J.A.C.” means the New Jersey Administrative Code.

“N.J.S.A.” means the New Jersey Statutes Annotated.

“PCM” or “phase contrast microscopy” means the scientific method of air sampling analysis for the purpose of determining airborne asbestos fiber concentrations in fibers per cubic centimeter of air (f/cc). This analytical method is to be consistent with the National Institute of Occupational Safety and Health (NIOSH) method 7400 as referenced in the 4th Edition, August 15, 1994 with addenda of the NIOSH Manual of Analytical Methods.

“Permit” means a certificate documenting acceptance by the Commissioner of a worker or a supervisor as competent to perform the application, enclosure, encapsulation, repair, or removal of asbestos-containing material. Workers shall work under the direction of a supervisor who holds a valid New Jersey asbestos supervisor permit.

“Public or private building” means any building, including commercial buildings as defined in 40 C.F.R. Part 763, Appendix C to Subpart E, or as defined in N.J.A.C. 5:23-8.

“Removal” means the taking out or the stripping of asbestos-containing surfacing, thermal, or miscellaneous material from a building or structure. Specifically excluded

from this definition are roofing and exterior siding materials in all but demolition projects.

“Repair” means the utilization of recommended work practices to minimize fiber release to return more than three linear feet or more than three square feet of damaged asbestos-containing material on any pipe, duct, boiler, tank, structural member or similar equipment to an undamaged condition or to an intact state by the application of duct tape, rewettable glass cloth, canvas, cement or other sealable material to seal exposed areas from which asbestos fibers may be released.

“Shall” indicates a mandatory requirement.

“Subcontractor” means an employer who hires workers and supervisors to perform asbestos work or who performs asbestos work directly.

“Supervisor” means any person who has completed an asbestos supervisor training course approved by the Department of Health and Senior Services and who has successfully passed a written asbestos supervisor examination devised and administered under the approval of the Department of Health and Senior Services for the position of supervisor and who possesses a valid asbestos supervisor permit issued by the Department of Labor and Workforce Development.

“TEM” or “transmission electron microscopy” means the scientific method of air sampling analysis for the purpose of definitively determining airborne asbestos fiber concentrations structures per cubic centimeter (s/cc) of air as well as the type of asbestos identified. This analytical method is to be consistent with the National Institute of Occupational Safety and Health (NIOSH) method 7402 as referenced in the 4th Edition, August 15, 1994 with addenda of the NIOSH Manual of Analytical Methods.

“Trainee” means any person who is enrolled in an asbestos worker or asbestos supervisor training course approved by the Department of Health and Senior Services.

“Training agency” means a training provider approved or certified by the Department of Health and Senior Services to conduct asbestos training courses.

“Training course” means any asbestos training course approved by the Department of Health and Senior Services in accordance with the requirements of N.J.A.C. 12:120 and 8:60.

“U.S.C.” means the United States Code.

“U.S.E.P.A.” means the United States Environmental Protection Agency.

“Worker” means a person who has completed an asbestos worker training course approved by the Department of Health and Senior Services and who has successfully passed a written asbestos worker examination devised and

administered under the approval of the Department of Health and Senior Services for the position of worker and who possesses a valid asbestos worker permit issued by the Department of Labor and Workforce Development.

Amended by R.1989 d.247, effective May 15, 1989.
See: 20 N.J.R. 1049(a), 21 N.J.R. 1333(b).

Definition of "Removal" added.

Amended by R.1990 d.278, effective June 4, 1990.
See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Added definitions for accepted engineering practice, applicant, certificant, C.F.R., Employment Services Office, facility, may, supervisor, trainee, U.S.C., worker, and modified definition of experienced asbestos worker.

Amended by R.1995 d.193, effective April 3, 1995.
See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative Correction.

See: 27 N.J.R. 1806(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" to definitions "Approved," "Commissioner," "Supervisor" and "Worker"; added "and Workforce Development, PO Box 386, Trenton, New Jersey 08625-0386" to definition "Division of Public Safety and Occupational Safety and Health."

SUBCHAPTER 3. ADMINISTRATION

8:60-3.1 Scope of subchapter

This subchapter shall apply to the administration of the licensing, permitting and certification standards mandated by this chapter.

8:60-3.2 Compliance

(a) Every employer falling within the scope of this chapter, who performs any of the functions of application, enclosure, repair, removal or encapsulation of asbestos in any structure, or who enters into any contract with the owner or owner's representative for the employer to perform such work or services, shall comply with the provisions of this chapter and shall be issued a nontransferable license by the Commissioner of Labor and Workforce Development.

(b) Every employee falling within the scope of this chapter who performs the functions of application, enclosure, repair, removal or encapsulation of asbestos shall procure a performance permit issued by the Commissioner of Labor and Workforce Development pursuant to this chapter.

(c) Every employer and employee shall take all prudent measures to comply with written recommendations made by the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services, as the case may be.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Text at (a), (b), and (d) deleted and new text added at (a) and (b).

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

In (a)-(c), added "and Workforce Development."

8:60-3.3 Interface of State agencies

(a) The Department of Labor and Workforce Development, under the provisions of this chapter, shall:

1. Issue licenses to qualified employers;
2. Issue permits to qualified workers;
3. Issue permits to qualified supervisors;
4. Collect the fees for licenses and permits;
5. Determine that employers have a valid license; and
6. Determine that workers and supervisors have valid permits.

(b) The Department of Health and Senior Services, under the provisions of this chapter, shall:

1. Certify training agencies which use Department of Health and Senior Services-approved courses to train workers and supervisors and to determine compliance by such training agencies with this chapter;
2. Certify the course of training for workers and supervisors;
3. Have the authority to develop, approve and administer examinations for workers and supervisors;
4. Collect fees for the certification of training courses and the administration of examinations;
5. Have the authority to determine that an employer has a valid license; and
6. Have the authority to determine that workers and supervisors have valid permits.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Permitting of supervisors and certification of training courses added.

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

In the introductory paragraph of (a), added "and Workforce Development."

8:60-3.4 Enforcement

(a) In accordance with N.J.S.A. 34:5A-41, any person who violates a provision of this chapter shall, upon conviction, be guilty of a crime of the third degree and, notwithstanding the provisions of N.J.S.A. 2C:43-3, shall be subject to a fine of not more than \$25,000 in addition to any other appropriate disposition authorized by subsection b of N.J.S.A. 2C:43-2.

(b) The Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services, as the case may be, as an alternative to or in addition to the fines and imprisonment authorized in (a) above, may employ the following powers and remedies in enforcing their respective responsibilities under the Act:

1. Whenever either the Commissioner of Labor and Workforce Development or Health and Senior Services find that a person has violated any provision of the Act for which that Commissioner has the responsibility to enforce, that Commissioner may issue an administrative order to abate the violation. The administrative order must:

i. Specify the provisions of the Act which the person has violated;

ii. Give notice of the person's right to an informal conference or hearing pursuant to N.J.A.C. 12:120-8 and 8:60-8, on the matters contained in the order. Upon a request for an informal conference or formal hearing, the Commissioner of Labor and Workforce Development or Health and Senior Services may grant a stay of the administrative order following review of a written request which includes a factual basis and clearly supports the appropriateness of the stay.

2. Either the Commissioner of Labor and Workforce Development or Health and Senior Services may institute an action or proceeding in the Superior Court for injunctive or other relief for any violation of this Act for which the Commissioner has the responsibility to enforce and the court may proceed in the action in a summary manner.

(c) Either the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services may assess a civil administrative penalty in accordance with N.J.A.C. 12:120-3.5 and 8:60-3.5, not to exceed \$25,000 for each violation of this Act for which that Commissioner has the responsibility to enforce.

1. Each day during which the violation continues shall constitute an additional, separate and distinct offense.

2. The assessment of a civil administrative penalty shall not be levied until after the alleged violator has been notified by certified mail or personal service. The notice of assessment shall include:

i. A reference to the section of the statute violated;

ii. A concise statement of the facts alleged to constitute a violation;

iii. A statement of the amount of civil administrative penalties to be imposed; and

iv. A statement of the alleged violator's right to an informal conference or formal hearing pursuant to N.J.A.C. 12:120-8 et seq. and 8:60-8 et seq.

3. Either Department may negotiate the amount of a civil administrative penalty as it deems appropriate.

4. Payment of the assessment of a civil administrative penalty is due upon issuance of a final order by the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services.

5. The Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services may file a civil action to recover a civil administrative penalty with costs pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

(d) A person who violates an administrative order issued pursuant to subsection (b)1 above, or who violates a court order issued pursuant to subsection (b)2 above, or who fails to pay in full an administrative assessment pursuant to subsection (c) above, shall be subject, upon court order, to a civil penalty not to exceed \$50,000 per day for such violation.

(e) The pursuit of any of the remedies specified in this section shall not preclude either Commissioner from seeking any other remedy.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Stylistic changes.

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" throughout (b) and (c).

8:60-3.5 Civil administrative penalties

(a) Employers, training agencies and instructors may be assessed civil administrative penalties not to exceed \$25,000 for each violation of the Act or this chapter, including, but not limited to:

1. Performing as an employer without a license;
2. Allowing an employee to work without a permit;
3. Submitting false information on the application for a license;
4. Submitting false information on the application for a course certification or instructor approval;
5. Performing as a training agency without certification;
6. Failure to meet license performance standards when performing asbestos abatement work;
7. Failure to perform quality asbestos training;
8. Submitting false information on training records;
9. Failure to fulfill notification requirements pursuant to N.J.A.C. 12:120-7 and 8:60-7;
10. Other violations of the Act or this chapter.

request within 10 calendar days of receipt of notice of the proposed agency action.

(b) In the interest of protecting employee or public health and safety, the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services may suspend a license, permit, instructor approval or training agency certification prior to a hearing. When the license, permit, training agency certification or instructor approval has been suspended, the aggrieved person shall have the right to a hearing within 10 calendar days of the notice of suspension.

(c) Upon receipt of the written request, an informal conference shall be held before a designee of the Commissioner of Labor and Workforce Development or Health and Senior Services, as the case may be, within 30 calendar days. The designee of the Commissioner of Labor and Workforce Development or Health and Senior Services as the case may be, shall render a decision within 45 calendar days of the conference. Such decision shall state the findings and conclusions and shall be transmitted to the aggrieved person.

(d) Any party who disagrees with the decision of the Commissioner of Labor and Workforce Development or Health and Senior Services' designee may submit a written request for a formal hearing in accordance with (e) below.

(e) Upon receipt of the written request, a formal hearing shall be held pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(f) For purposes of this section, due notice shall mean written notice mailed to the aggrieved person's last filed address which specifies:

1. The intended agency action;
2. The legal basis for such action;
3. The facts supporting such legal basis; and
4. Notice of the right to an informal conference or formal hearing;
 - i. The 10 calendar day period to request such informal conference or formal hearing; and
 - ii. The address to which such requests shall be sent.

(g) When an aggrieved person fails to request an informal conference or formal hearing within the 10 calendar day period, his or her right to an informal conference or formal hearing pursuant to this section shall be deemed waived and the proposed agency action shall become final.

Administrative change.
See: 32 N.J.R. 803(a).
Amended by R.2005 d.415, effective November 21, 2005.
See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" following "Commissioner of Labor" to (a), (b), (c) and (d); in (d), substituted "(e)" for "subsection (d)" preceding "below."

8:60-8.3 Citizen complaints

(a) Any person who believes a violation of the provisions of the Act has occurred may file a citizen complaint petitioning the Commissioner of Labor and Workforce Development or Health and Senior Services to bring an enforcement action. The citizen complaint shall specify:

1. The alleged violation;
2. The facts constituting the alleged violation; and
3. The name and address of the citizen filing the complaint.

(b) Upon receipt of a citizen complaint, the Commissioner responsible for enforcement of the provision allegedly violated shall:

1. Give notice of the citizen complaint to the alleged violator within 10 calendar days;
2. Give notice to the complaining citizen and the alleged violator of the scheduling of an enforcement investigation inspection within 30 calendar days of the date of the complaint filing;
3. Afford the complaining citizen or his or her representative an opportunity to be present during the enforcement investigation inspection, provided the complaining citizen shall hold the State harmless from all legal liabilities arising out of the enforcement investigation including, but not limited to, litigation resulting from any potential exposure to asbestos;
4. Afford the complaining citizen access to all public records regarding the Commissioner's investigation; and
5. After investigation, the Commissioner shall render a final decision on the appropriate disposition of the complaint within 90 calendar days of the date of receipt of the citizen complaint.

(c) A public employee who files a citizen complaint pursuant to this section shall:

1. Have the right to accompany the Commissioner on an enforcement investigation inspection;
2. Receive payment of normal wages for the time spent during normal working hours on the inspection; and
3. Have all protections and rights as set forth under N.J.S.A. 34:6A-45.

Administrative change.
See: 32 N.J.R. 803(a).
Amended by R.2005 d.415, effective November 21, 2005.
See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" to the introductory paragraph of (a).

**SUBCHAPTER 9. STANDARDS AND PUBLICATIONS
REFERRED TO IN THIS CHAPTER**

8:60-9.1 Documents referred to by reference

(a) The full title and edition of each of the standards and publications referred to in this chapter are as follows:

1. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants;
2. N.J.A.C. 1:1, Uniform Procedure Rules;
3. N.J.A.C. 5:23-8, Asbestos Hazard Abatement Sub-code of the Uniform Construction Code;
4. N.J.A.C. 7:26, Non-Hazardous Waste Regulations;
5. N.J.S.A. 34:5A-32 et seq., Asbestos Control and Licensing Act;
6. N.J.S.A. 52:14B-1 et seq., Administrative Procedures Act;
7. 29 C.F.R. 1910.134—Respiratory Protection;
8. 29 C.F.R. 1926.1101(h)—Respiratory Protection; and
9. 40 C.F.R. Part 763—Asbestos Model Accreditation Plan; Interim Final Rule.

Amended by R.1986 d.149, effective May 5, 1986.

See: 18 N.J.R. 156(a), 18 N.J.R. 986(a).

(a)1.-2. repealed; old 3.-8. now 1.-6.

Amended by R.1995 d. 193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

8:60-9.2 Availability of documents for inspection

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Public Safety and Occupational Safety and Health between the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

New Jersey Department of Labor and Workforce
Development
Division of Public Safety and Occupational Safety
and Health
1 John Fitch Plaza, 3rd Floor
PO Box 392
Trenton, New Jersey 08625-0392

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Rewrote address.

8:60-9.3 Availability of documents from issuing organization

Copies of the standards and publications referred to in this chapter may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning, and are the organizations issuing the standards and publications listed in N.J.A.C. 12:120-9.1 and 8:60-9.1.

CFR—Code of Federal Regulations

Copies available from:

Superintendent of Documents

Government Printing Office

Washington, D.C. 20402

N.J.A.C.—New Jersey Administrative Code

Copies available from:

Division of Public Safety and Occupational
Safety and Health

New Jersey Department of Labor and Workforce
Development

PO Box 392

Trenton, NJ 08625-0392

N.J.S.A.—New Jersey Statutes Annotated

Copies available from:

Division of Public Safety and Occupational
Safety and Health

New Jersey Department of Labor and Workforce
Development

PO Box 392

Trenton, NJ 08625-0392

Amended by R.1995 d. 193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" following "New Jersey Department of Labor" throughout.