

CHAPTER 60**PREVAILING WAGES FOR PUBLIC WORKS****Authority**

N.J.S.A. 34:11-56.25 et seq., specifically 34:11-56.43.

Source and Effective Date

R.1998 d.182, effective March 16, 1998.
See: 30 N.J.R. 17(a), 30 N.J.R. 1292(a).

Executive Order No. 66(1978) Expiration Date

Chapter 60, Prevailing Wages for Public Works, expires on March 16, 2003.

Chapter Historical Note

Chapter 60, originally Prevailing Wage Rate Determinations, was filed and became effective prior to September 1, 1969. Subsequent prevailing wage rate determinations for construction workers on public works projects were filed, but not reproduced in Chapter 60. Those filings were: R.1973 d.61, filed March 7, 1973. See: 5 N.J.R. 114(b). R.1973 d.330, filed November 26, 1973. See: 6 N.J.R. 16(b). R.1974 d.223, filed August 14, 1974. See: 6 N.J.R. 352(a). R.1975 d.323, filed October 28, 1975. See: 7 N.J.R. 569(b). R.1976 d.301, filed September 23, 1976. See: 8 N.J.R. 517(b). R.1977 d.383, filed October 11, 1977. See: 9 N.J.R. 537(a). R.1978 d.377, filed October 24, 1978. See: 10 N.J.R. 553(c). R.1979 d.370, filed September 19, 1979. See: 11 N.J.R. 561(a). R.1980 d.410, filed September 24, 1980. See: 12 N.J.R. 666(b).

Chapter 60, Prevailing Wages for Public Works (Subchapters 1 through 5), was adopted as R.1988 d.113, effective March 21, 1988. See: 19 N.J.R. 345(b), 20 N.J.R. 664(a). Subchapter 6, Inspection of Records, was adopted as R.1988 d.398, effective August 15, 1988. See: 20 N.J.R. 1164(a), 20 N.J.R. 2064(a). Subchapter 7, Criteria for Determining Apprentice to Journeyman Ratio, was adopted as R.1988 d.399, effective August 15, 1988. See: 20 N.J.R. 1164(b), 20 N.J.R. 2064(b). Subchapter 8, Debarment from Contracting, was adopted as R.1989 d.23, effective January 3, 1989. See: 20 N.J.R. 2520(a), 21 N.J.R. 21(b). Subchapter 9, Violations, Penalties, and Fees, was adopted as R.1991 d.611, effective December 16, 1991. See: 23 N.J.R. 2945(b), 23 N.J.R. 3812(a).

Pursuant to Executive Order No. 66(1978), Chapter 60, Prevailing Wages for Public Works, was readopted as R.1993 d.164, effective March 19, 1993. See: 25 N.J.R. 453(a), 25 N.J.R. 1771(a).

Pursuant to Executive Order No. 66(1978), Chapter 60, Prevailing Wages for Public Works, was readopted as R.1998 d.182, effective March 16, 1998. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 12:60-1.1 Title and citation
- 12:60-1.2 Authority
- 12:60-1.3 Purpose
- 12:60-1.4 Scope
- 12:60-1.5 Documents referred to by reference
- 12:60-1.6 Validity

SUBCHAPTER 2. DEFINITIONS

- 12:60-2.1 Definitions

SUBCHAPTER 3. CATEGORIES OF CRAFTS, TRADES OR CLASSES OF WORKMEN

- 12:60-3.1 Scope of subchapter
- 12:60-3.2 List of crafts, trades or classes of workmen
- 12:60-3.3 Classification of tasks for painters
- 12:60-3.4 Classification of tasks for operating engineers
- 12:60-3.5 Classification of tasks for drillers
- 12:60-3.6 Classification of tasks for dredging operators
- 12:60-3.7 Classification of tasks for heavy and general laborers
- 12:60-3.8 Classification of tasks for asphalt laborers
- 12:60-3.9 Classification of tasks for truck drivers

SUBCHAPTER 4. CRITERIA FOR ESTABLISHMENT OF CRAFTS, TRADES OR CLASSES OF WORKMEN

- 12:60-4.1 Scope of subchapter
- 12:60-4.2 Criteria for establishment

SUBCHAPTER 5. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

- 12:60-5.1 Documents referred to by reference
- 12:60-5.2 Availability of documents for inspection
- 12:60-5.3 Availability of documents from issuing organization

SUBCHAPTER 6. INSPECTION OF RECORDS

- 12:60-6.1 Inspections

SUBCHAPTER 7. CRITERIA FOR DETERMINING APPRENTICE TO JOURNEYMAN RATIO

- 12:60-7.1 Definitions
- 12:60-7.2 Responsibilities of contractors and subcontractors
- 12:60-7.3 Ratio of apprentices to journeymen
- 12:60-7.4 Correction of wage rate

SUBCHAPTER 8. DEBARMENT FROM CONTRACTING

- 12:60-8.1 Purpose and scope
- 12:60-8.2 Definitions
- 12:60-8.3 Conditions of debarment
- 12:60-8.4 Notification of debarment
- 12:60-8.5 Lists

SUBCHAPTER 9. VIOLATIONS, PENALTIES, AND FEES

- 12:60-9.1 Purpose; scope
- 12:60-9.2 Violations of the Act
- 12:60-9.3 Administrative penalties
- 12:60-9.4 Administrative fees
- 12:60-9.5 Interest
- 12:60-9.6 Hearings
- 12:60-9.7 Discharge or discrimination against employee making complaint

APPENDIX A**SUBCHAPTER 1. GENERAL PROVISIONS****12:60-1.1 Title and citation**

This chapter shall be known and may be cited as N.J.A.C. 12:60, Prevailing Wages for Public Works.

12:60-1.2 Authority

These rules are promulgated pursuant to the authority of the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq.

12:60-1.3 Purpose

(a) The purpose of this chapter is to:

1. List each and every craft, trade, or class of workmen employed on public works in each of the 21 counties of the State; and
2. List the criteria to be used when an issue regarding the establishment of a craft, trade or class of workmen arises.

12:60-1.4 Scope

(a) This chapter shall implement the Act by listing by name each craft, trade or class of workmen utilized in the various counties of the State; and

(b) This chapter shall apply to every contract in excess of \$10,743 awarded in whole or in part by a municipal public body and to every subcontract pursuant to said contract. It shall also apply to every contract in excess of \$2,000 awarded by a nonmunicipal public body and to every subcontract pursuant to said contract.

Amended by R.1998 d.182, effective April 6, 1998.

See: 30 N.J.R. 17(a), 30 N.J.R. 1292(a).

Rewrote (b).

Administrative change.

See: 31 N.J.R. 1617(a).

12:60-1.5 Documents referred to by reference

The availability of standards and publications referred to in this chapter is explained in N.J.A.C. 12:60-6.

12:60-1.6 Validity

Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decision shall not affect the remaining portions of this chapter.

SUBCHAPTER 2. DEFINITIONS**12:60-2.1 Definitions**

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

“Act” means the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq.

“Certified payroll record” means a payroll record which is attested to by the employer, or the owner of the company doing business as the employer, or a corporate officer of such company, or an authorized agent of the employer.

“Commissioner” means the Commissioner of Labor, or his duly authorized designee.

“Department” means the Department of Labor.

“Division of Workplace Standards” means the Division of Workplace Standards, New Jersey Department of Labor, PO Box 054, Trenton, New Jersey 08625-0054.

“Employer” means any natural person, company, firm, subcontractor or other entity engaged in public work.

“Locality” means any political subdivision of the State, combination of the same or parts thereof, or any geographical area or areas classified, designated and fixed by the commissioner from time to time, provided that in determining the “locality” the commissioner shall be guided by the boundary lines of political subdivisions or parts thereof, or by a consideration of the areas with respect to which it has been the practice of employers of particular crafts or trades to engage in collective bargaining with the representatives of workmen in such craft or trade.

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

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

“Office of Wage and Hour Compliance” means the Office of Wage and Hour Compliance of the Division of Workplace Standards, New Jersey Department of Labor, PO Box 389, Trenton, N.J. 08625-0389.

“Payroll record” means a form satisfactory to the Commissioner, wherein is shown employee information such as name, address, social security number, craft or trade, together with actual hourly rate of pay, actual daily, overtime and weekly hours worked in each craft or trade, gross pay, itemized deductions, and net pay paid to the employee; such record shall also include:

1. Any fringe benefits paid to approved plans, funds or programs on behalf of the employee; and
2. Fringe benefits paid in cash to the employee.

“Persons” means any natural person, company, firm, association, corporation, contractor, subcontractor or other entity engaged in public work.

“Prevailing wage” means the wage rate paid by virtue of collective bargaining agreements by employers employing a majority of workmen of that craft or trade subject to said collective bargaining agreements, in the locality in which the public work is done.

“Public body” means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions.

“Public work” means construction, reconstruction, demolition, alteration, or repair work, or maintenance work,

including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. “Public work” shall also mean construction, reconstruction, demolition, alteration, or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into of the contract:

1. Not less than 55 percent of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and
2. The portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

Amended by R.1992 d.94, effective February 18, 1992.

See: 23 N.J.R. 2945(a), 24 N.J.R. 622(b).

Added definitions "Certified payroll record" and "payroll record"; revised "public work".

SUBCHAPTER 3. CATEGORIES OF CRAFTS, TRADES OR CLASSES OF WORKMEN

12:60-3.1 Scope of subchapter

This subchapter shall apply to crafts, trades or classes of workmen which are utilized on public work construction contracts governed by the New Jersey Prevailing Wage Act.

12:60-3.2 List of crafts, trades or classes of workmen

(a) Listed below are those crafts, trades or classes of workmen established by the Commissioner in all counties, except as otherwise noted, which shall be paid prevailing wages on public works construction contracts governed by the New Jersey Prevailing Wage Act.

1. Air conditioning worker, refrigeration worker: journeyman or apprentice.
2. Asbestos worker, heat insulator, frost insulator: journeyman, foreman, or apprentice.
3. Boilermaker: journeyman, foreman, helper, or apprentice.
4. Bricklayer, stonemason: journeyman, foreman, or apprentice.
5. Building laborer: journeyman or foreman.
6. Carpenter: journeyman, foreman, or apprentice.
7. Carpenter of resilient flooring: journeyman, foreman, or apprentice. Applies in all counties except Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem counties.
8. Cement mason, cement finisher: journeyman, foreman, or apprentice.
9. Diver, diver tender.
10. Dock builder, pile-driver: journeyman, foreman, or apprentice.
11. Dock builder creosote, pile driver creosote: journeyman, foreman, or apprentice.
12. Drywall finisher: journeyman, foreman, or apprentice.
13. Electrician: journeyman, foreman, or apprentice.
14. Elevator constructor: journeyman, foreman, helper, or apprentice.
15. Glazier: journeyman, foreman, or apprentice.
16. Ironworker: journeyman, foreman, or apprentice.
17. Lineman: journeyman, foreman, or apprentice. Applies in Atlantic and Cape May counties only.
18. Lather: journeyman, foreman, or apprentice.
19. Marble setter: journeyman, foreman, or apprentice.
20. Millwright: journeyman or foreman. Applies in all counties except Mercer county.
21. Painter: journeyman, foreman, or apprentice. See N.J.A.C. 12:60-3.3 for classification of tasks.
22. Pipefitter: journeyman, foreman, or apprentice.
23. Plasterer: journeyman, foreman, or apprentice.
24. Plumber: journeyman, foreman, or apprentice.
25. Roofer: journeyman, foreman, helper or apprentice.
26. Roofer shingle, slate and tile: journeyman, foreman, or helper.
27. Sheet metal worker: journeyman, foreman, or apprentice.
28. Sprinkler fitter: journeyman, foreman, or apprentice.
29. Tile setter: journeyman, foreman, or apprentice.
30. Tile setter helper.
31. Welder.
32. Operating engineer. See N.J.A.C. 12:60-3.4 for classification of tasks.
33. Driller. See N.J.A.C. 12:60-3.5 for classification of tasks.
34. Dredging operator. See N.J.A.C. 12:60-3.6 for classification of tasks.
35. Heavy and general laborer. See N.J.A.C. 12:60-3.7 for classification of tasks.
36. Asphalt laborer. See N.J.A.C. 12:60-3.8 for classification of tasks.
37. Truck driver. See N.J.A.C. 12:60-3.9 for classification of tasks.

Petition to Rulemaking: request to include telephone workers.
See: 23 N.J.R. 3181(b), 23 N.J.R. 3659(b), 24 N.J.R. 306(a).

Case Notes

Project labor agreement specifications in public library construction project requiring that each contractor and subcontractor submitting bids sign project agreement to be negotiated by construction manager or architect and appropriate building and construction trade union, with definition of appropriate union limited to only two unions, impermissibly restricted contractors to union-only work force and conflicted with public bidding laws. *Tormee Const., Inc. v. Mercer County Imp. Authority*, 143 N.J. 143, 669 A.2d 1369 (1995).

Decision by Wage Collection Section to classify carpet installers as carpenters for purposes of assigning prevailing wage rate was presumed

reasonable; not be subject to de novo review. *Marr v. ABM Carpet Service, Inc.*, 286 N.J.Super. 500, 669 A.2d 864 (L.1995).

12:60-3.3 Classification of tasks for painters

(a) Painters shall be classified in all counties, except as otherwise noted below, into various tasks in accordance with the prevailing collective bargaining agreements as follows:

1. Painter.
2. Structural steel and spray painter.
3. Bridge viaduct and other appurtenances painter.
4. Repaint painter. Applies in Atlantic, Bergen, Cape May, Cumberland, Essex, Hudson, Hunterdon, Mercer, Morris, Passaic, Somerset, Sussex, Union and Warren counties.
5. Repaint painter on bridge, viaduct and other appurtenances. Applies only in Atlantic, Bergen and Cape May counties.
6. Traffic marking painter.

12:60-3.4 Classification of tasks for operating engineers

(a) Operating engineers shall be classified in all counties into various tasks in accordance with the prevailing collective bargaining agreement as follows:

1. A-frame operating engineer.
2. Aerial platform operating engineer.
3. Assistant engineer, oiler.
4. Asphalt curbing machine operating engineer.
5. Asphalt plant engineer.
6. Asphalt spreader operating engineer.
7. Autograde combination subgrader, base material spreader, base trimmer operating engineer.
8. Autograde pavement profiler operating engineer.
9. Autograde pavement profiler, recycle type, operating engineer.
10. Autograde placer-trimmer, spreader combination operating engineer.
11. Autograde slipform paver operating engineer.
12. Autograde curecrete machine operating engineer.
13. Autograde tube finisher, texturing machine operating engineer.
14. Autograde curb trimmer, sidewalk, shoulder, slipform, operating engineer.
15. Backhoe operating engineer.
16. Backhoe, combination operating engineer.
17. Bar bending machine, power operating engineer.
18. Batchers, batching plant, crusher on site operating engineer.

19. Belt conveyor system operating engineer.
20. Boiler, steam jenny operating engineer.
21. Boom type skimmer machine operating engineer.
22. Boom attachment or loader operating engineer.
23. Boring and drilling machine operating engineer.
24. Bridge deck finisher operating engineer.
25. Broom and sweeper operating engineer.
26. Brush chopper, shredder, tree shredder, tree shearer operating engineer.
27. Bulldozer operating engineer.
28. Cableway operating engineer.
29. Car dumper, railroad operating engineer.
30. Carryall operating engineer.
31. Central power plant operating engineer.
32. Chipper operating engineer.
33. Compressor, blower operating engineer.
34. Compressor, single operating engineer.
35. Compressor, two or three battery operating engineer.
36. Concrete breaking machine operating engineer.
37. Concrete finishing machine operating engineer.
38. Concrete paving machine operating engineer.
39. Concrete pump operating engineer.
40. Concrete pumping system, pumpcrete, similar types, operating engineer.
41. Concrete saw and cutter, ride on type, operating engineer.
42. Concrete spreader, Hetzel, Rexomatic and similar types, operating engineer.
43. Concrete spreader, small type, operating engineer.
44. Concrete vibrator operating engineer.
45. Conveyor, under 125 feet, operating engineer.
46. Conveyor, 125 feet and over, operating engineer.
47. Conveyor loader, not including elevator grader, operating engineer.
48. Crane, all types, including overhead and straddle traveling type, operating engineer.
49. Crane, gantry, operating engineer.
50. Crushing machine, operating engineer.
51. Derrick operating engineer.
52. Ditching machine operating engineer.