

**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.

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**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:



Table 9.4(c)

## Schedule of Administrative Fees

1. First violation—10 percent of amount of any payment made to the Commissioner pursuant to this chapter;
2. Second violation—18 percent of amount of any payment made to the Commissioner pursuant to this chapter;
3. Third and subsequent violations—25 percent of amount of any payment made to the Commissioner pursuant to this chapter.

**12:60-9.5 Hearings**

(a) No assessment of wages, fees or penalties shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with written notification of the violation and the amount of the wages, fees and/or penalties, and an opportunity to request a formal hearing. A request for a formal hearing must be received within 15 business days following the receipt of the notice of assessment. All contested cases shall be heard pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The filing of a request for a hearing regarding wages, fees or penalties shall not preclude the Commissioner from pursuing other remedies under the Prevailing Wage Act, including debarment pursuant to N.J.S.A. 34:11-56.37 and 56.38.

(b) All requests for a hearing shall be reviewed by the Office of Wage and Hour Compliance to determine if the reason for dispute could be resolvable at an informal settlement conference. If the review indicates that an informal settlement conference is warranted, such conference shall be scheduled. If a settlement cannot be reached, the case shall be forwarded to the Office of Administrative Law for a formal hearing.

(c) The Commissioner shall make the final decision of the Department.

(d) Appeals of the final decision of the Commissioner shall be made to the Appellate Division of the New Jersey Superior Court.

(e) If the employer, or a designated representative of the employer, fails to appear at a requested hearing, the Com-

missioner or his or her designee may, for good cause shown, reschedule a hearing.

(f) If the Commissioner or his or her designee does not authorize such a rescheduled hearing, then the Commissioner shall issue a final agency determination.

(g) Payment of the wages, fees and/or penalties is due when a final agency determination is issued.

(h) Upon final determination, the wages, fees and penalties may be recovered with cost in a summary proceeding commenced by the Commissioner.

Amended by R.1996 d.113, effective February 20, 1996.  
See: 27 N.J.R. 4495(a), 28 N.J.R. 1221(a).

**12:60-9.6 Discharge or discrimination against employee making complaint**

(a) An employer is a disorderly person, if he or she discharges or in any other manner discriminates against any employee because such employee has made any complaint to his or her employer, to the public body, or to the Commissioner that he or she has not been paid wages in accordance with the provisions of this chapter, or because such employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this chapter, or because such employee has testified or is about to testify in any such proceeding, shall be guilty of a disorderly persons offense and shall, upon conviction therefor, be fined not less than \$100.00 nor more than \$1,000.00.

(b) As an alternative to, or in addition to, any sanctions imposed under (a) above, the Commissioner is authorized under N.J.S.A. 34:11-56a.24 to assess and collect administrative penalties as provided for in N.J.A.C. 12:60-9.3.

**APPENDIX A****FORM TO FACILITATE THE SUBMISSION  
OF PAYROLL RECORDS**

Editor's Note: N.J.A.C. 12:60, Appendix A, is not reproduced in the New Jersey Administrative Code. A copy may be obtained by contacting the Office of Administrative Law, PO Box 049, Trenton, New Jersey 08625-0049, or the Department of Labor, Division of Workplace Standards.

New Rule, R.1992 d.94, effective February 18, 1992.  
See: 23 N.J.R. 2945(a), 24 N.J.R. 622(b).