

CHAPTER 102
SEASONAL FARM WORKERS

Authority

N.J.S.A. 34:1-20, 34:1A-3(e) and 34:9A-37 et seq.

Source and Effective Date

R.2000 d.168, effective March 27, 2000.
See: 32 N.J.R. 384(a), 32 N.J.R. 1400(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 102, Seasonal Farm Workers, expires on September 23, 2005. See: 37 N.J.R. 1124(a).

Chapter Historical Note

Chapter 102, Field Sanitation, was adopted as R.1971 d.211, effective November 24, 1971. See: 3 N.J.R. 157(b), 3 N.J.R. 260(b).

Chapter 102, Field Sanitation, was repealed by R.1978 d.288, effective August 16, 1978. See: 10 N.J.R. 258(a), 10 N.J.R. 400(d).

Chapter 102, Seasonal Farm Workers, was adopted as new rules by R.1990 d.258, effective May 21, 1990. See: 21 N.J.R. 2224(b), 22 N.J.R. 1610(a).

Pursuant to Executive Order No. 66(1978), Chapter 102, Seasonal Farm Workers, was readopted as R.1995 d.257, effective April 24, 1995. See: 27 N.J.R. 1133(a), 27 N.J.R. 2004(a).

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SUBCHAPTER 1. FIELD SANITATION

12:102-1.1 Purpose and scope

(a) The purpose of this subchapter is to provide reasonable standards for drinking, toilet and washing facilities for seasonal farm workers when working in a field.

(b) This subchapter shall be applicable to all farms subject to N.J.S.A. 34:9A-37 et seq. when 10 or fewer seasonal farm workers are working in a field.

1. If, at any time during a one-year period from the date of inspection, more than 10 seasonal farm workers

have been employed, the Federal Occupational Safety and Health Act (OSHA) standards pursuant to 29 CFR 1928.110, shall be applicable.

12:102-1.2 Definitions

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

“Approved” means acceptable to the Commissioner. Any product certified, or classified, or labeled by a nationally recognized testing agency may be deemed to be acceptable, unless specifically banned by order of the Commissioner.

“Central facilities” means drinking, toilet and washing facilities housed at a central location which comply with Federal, State and local regulations and are at least equivalent in all respects to the facilities required by this subchapter.

“Commissioner” means the Commissioner of the Department of Labor of the State of New Jersey or his or her designee.

“Cool” means water which is maintained at a temperature of not more than 60 degrees Fahrenheit.

“Farm operator” means any individual, family member, corporation, partnership, joint venture, firm, company, or other legal entity, or any officers or agents thereof, in immediate possession of any farm as owner or lessee, and, as such, responsible for its management and condition.

“Potable water” means water which has been tested and approved for compliance with the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.

“Seasonal farm worker” means any person who is engaged in seasonal or temporary farm work and is a term that may be used interchangeably with the terms “migrant laborer” and “temporary farm worker”.

“Unreasonable distance” means a travel distance from a working area in a field of more than 500 feet for drinking facilities and a travel distance of more than 1,300 feet for toilet or washing facilities.

Amended by R.2000 d.168, effective April 17, 2000.
See: 32 N.J.R. 384(a), 32 N.J.R. 1400(a).

In “Potable water”, substituted a reference to the Safe Drinking Water Act for a reference to the potable water standards of the New Jersey Department of Health.

12:102-1.3 Availability of water

(a) An adequate supply of fresh, cool, potable water shall be provided for workers in the working area, except when cool potable water facilities are available to the workers:

1. At a central facility within 500 feet travel distance of the working area in the field; or
2. At a location, separate from a central facility, within 500 feet travel distance of the working area in the field.

(b) Upon request of the Commissioner, a farm operator shall provide evidence of the quality of drinking water provided from a non-public water supply system for compliance with (a) above.

12:102-1.4 Water containers

(a) Portable containers used to dispense drinking water shall be capable of being tightly closed, and shall be equipped with a tap.

(b) Water shall not be dipped from containers.

(c) Any container used to distribute drinking water shall be clearly marked as to the nature of its contents and shall not be used for any other purpose.

(d) The water shall be dispensed in single-use drinking cups or by fountains. The use of common drinking cups or dippers is prohibited.

(e) Where single service cups are supplied, a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.

1. Single service cups shall not be used more than once.

Amended by R.1995 d.257, effective May 15, 1995.
See: 27 N.J.R. 1133(a), 27 N.J.R. (2004)(a).

12:102-1.5 Toilet facilities

(a) Toilet facilities shall be provided for workers in the working area, except when toilet facilities:

1. Are available to the workers at a central facility within 1,300 feet travel distance or a five-minute walking time of the working area in the field;
2. Are available to the workers at a location, separate from a central facility, within 1,300 feet travel distance or a five-minute walking time of the working area in the field; or
3. Are accessible and immediately available to all the workers at all times within five minutes travel time by approved transportation provided by the farm operator.

(b) Toilet facilities required in (a) above shall be separate for each sex and provided in accordance with Table 1.5(b) below:

TABLE 1.5(b)

1-20 males	1 seat
1-20 females	1 seat

(c) Toilet facilities shall be a suitable type acceptable for the elimination of bodily wastes and may consist of the following types:

1. Pit privies;
2. Chemical toilets (fixed or portable);
3. Combustion toilets;
4. Composting toilets;
5. Recirculating toilets; or
6. Other generally accepted facilities.

(d) Toilet facilities shall be equipped with an adequate supply of toilet paper.

(e) Toilet facilities shall be maintained in a clean and sanitary condition, and in good working order.

(f) Toilet facilities shall be so constructed and designed so as to afford reasonable privacy to the user. Where applicable, doors with inside locking capability shall be provided.

12:102-1.6 Handwashing facilities

(a) Adequate handwashing facilities shall be provided for workers in the working area and in the vicinity of toilet facilities required by this subchapter, except when handwashing facilities:

1. Are available to the workers at a central facility within 1,300 feet travel distance of the working area in the field and in the vicinity of toilet facilities required by this subchapter;
2. Are available to the workers at a location, separate from a central facility and in the vicinity of toilet facilities, within 1,300 feet travel distance or five minutes walking time of the working area in the field; or
3. In the vicinity of toilet facilities are accessible and immediately available to all the workers at all times within five minutes travel time by approved transportation provided by the farm operator.

(b) Washing facilities shall provide potable water, soap or other cleansing agent and individual towels.

(c) Waste water shall be disposed of in a sanitary and safe manner.

12:102-1.7 Penalties

Failure to comply with the provisions of this subchapter shall subject the farm operator to a fine pursuant to N.J.S.A. 34:9A-40.

12:102-1.8 Exceptions

(a) The Commissioner may grant exceptions from this subchapter, provided that it shall be clearly evident that such exception will provide for conditions that are equal to or better than the literal requirements set forth in this subchapter.

(b) Toilet facilities are not required where:

1. Workers perform work in a given field for a period of three hours or less, including travel time, provided that

at the conclusion of such period the workers are at a location where the facilities are available; or

2. Workers operate mobile equipment, as such workers can carry an adequate supply of potable water on the equipment and are able to travel to toilet and handwashing facilities in accordance with the timeframes set forth at N.J.A.C. 12:102-1.5 and 1.6.

Amended by R.2000 d.168, effective April 17, 2000.

See: 32 N.J.R. 384(a), 32 N.J.R. 1400(a).

In (b), deleted a reference to washing facilities in the introductory paragraph.