

“Act” means the New Jersey Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq.

“Approved” means acceptable to the Commissioner of Labor.

“CFR” means Code of Federal Regulations.

“Commissioner” means the Commissioner of Labor or his or her designee.

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

“Employee” means any public employee, any person holding a position by appointment or employment in the service of an “employer” as that term is used in the Act and shall include any individual whose work has ceased as a consequence of, or in connection with, any administrative or judicial action instituted under the Act; provided, however, that elected officials, members of boards and commissions and managerial executives as defined in the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. shall be excluded from the coverage of the Act.

“Employer” means public employer and shall include any person acting directly on behalf of, or with the knowledge and ratification of:

1. The State, or any department, division, bureau, board, council, agency or authority of the State, except any bi-state agency; or

2. Any county, municipality, or any department, division, bureau, board, council, agency or authority of any county or municipality, or of any school district or special purposes district created pursuant to law.

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

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

“Serious injury” means any injury which requires treatment beyond first aid.

“Shall” means a mandatory requirement.

Amended by R.1986 d.285, effective July 21, 1986.
See: 18 N.J.R. 811(b), 18 N.J.R. 1479(b).

The definition for “CFR” has been amended.
Amended by R.1987 d.439, effective November 2, 1987.
See: 19 N.J.R. 1533(a), 19 N.J.R. 2060(b).

Deleted text from CFR “in effect on . . .”.
Amended by R.1998 d.574, effective December 7, 1998.
See: 30 N.J.R. 3368(a), 30 N.J.R. 4240(b).

Rewrote “Division of Workplace Standards” as “Division of Public Safety and Occupational Safety and Health”.

SUBCHAPTER 3. ADMINISTRATION

12:100-3.1 Scope of subchapter

This subchapter shall apply to the administration of the safety and health standards mandated by this chapter.

12:100-3.2 Compliance

(a) Every employer shall comply with the provisions of this chapter.

(b) Every employee shall comply with the provisions of this chapter as they pertain to him or her.

(c) When an employer has provided personal protection equipment in accordance with this chapter, the employee shall utilize such equipment when the hazard for which the equipment was provided exists.

(d) Every employer shall provide a reasonable safeguard against any recognized hazard which could cause serious injury or death to the employees.

(e) Every employer shall take all prudent measures to comply with written recommendations made by the Commissioner or the Commissioner of Health and Senior Services to reduce the risk of exposure to unsafe or unhealthy conditions which have been shown to be detrimental to employee health and safety. This provision shall apply for hazards not specifically covered by a standard in this chapter or a standard referenced in this chapter.

Amended by R.1998 d.574, effective December 7, 1998.

See: 30 N.J.R. 3368(a), 30 N.J.R. 4240(b).

In (e), deleted a reference to the Commissioner of Community Affairs.

12:100-3.3 Interface of state agencies

(a) The New Jersey Department of Labor shall inspect under the provisions of this chapter where the provisions relate to safety issues in accordance with N.J.S.A. 34:6A-35.

(b) The New Jersey Department of Health and Senior Services shall inspect under the provisions of this chapter where the provisions relate to health issues in accordance with N.J.S.A. 34:6A-38.

(c) The provisions of (a) and (b) above shall not be construed to diminish the primary responsibility of the Commissioner of Labor for administering and enforcing the State plan in accordance with N.J.S.A. 34:6A-29.

Amended by R.1998 d.574, effective December 7, 1998.

See: 30 N.J.R. 3368(a), 30 N.J.R. 4240(b).

In (b), deleted a reference to N.J.S.A. 34:6A-37; deleted a former (c); and recodified former (d) as (c), and made an internal reference change.

SUBCHAPTER 3A. ADOPTION OF STANDARDS

12:100-3A.1 Adoption of standards in compliance with applicable Federal standards

The Commissioner shall provide for the adoption of all applicable occupational health and safety standards, amendments or changes adopted or recognized by the Secretary under the authority of the Occupational Safety and Health Act of 1970. Whenever the United States Secretary of Labor adopts a standard pursuant to the provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 et seq.), the Commissioner shall publish that Federal standard within six months of Federal adoption in the New Jersey Register in accordance with the provisions of N.J.S.A. 52:14B-5 and, notwithstanding the provisions of N.J.S.A. 52:14B-4, that Federal standard shall be deemed to be duly adopted as a State rule upon its publication by the Commissioner.

12:100-3A.2 Adoption of standards more stringent than Federal standards

(a) The Commissioner shall not adopt any standard within the scope of the State Uniform Construction Code adopted pursuant to N.J.S.A. 52:27D-119 et seq., or the Uniform Fire Safety Code adopted pursuant to N.J.S.A. 52:27D-192 et seq., unless the standard is one adopted pursuant to N.J.A.C. 12:100-4. If the Commissioner of Community Affairs determines that a building or structural safety standard adopted by the Commissioner pursuant to N.J.A.C. 12:100-4 is more stringent than the applicable standards found in the State Uniform Construction Code or the Uniform Fire Safety Code, he or she shall adopt a rule incorporating the more stringent standard. If the Commissioner of Community Affairs determines that there is a difference between a provision of any new or existing standard adopted pursuant to N.J.A.C. 12:100-4 and a provision of the Uniform Construction Code or the Uniform Fire Safety Code, and he or she determines that the provision of the applicable code is as effective as the provision of the standard, he or she shall prepare and submit to the Commissioner an application for submission to the Secretary of Labor seeking the approval of that provision of the Uniform Construction Code or the Uniform Fire Safety Code as being as effective as the provision of the standard and the approval of the incorporation of the code provision into the State Plan.

(b) Where no Federal standards are applicable or where standards more stringent than the Federal standards are deemed advisable, the Commissioner shall, in consultation with the Commissioner of Health and Senior Services and the Commissioner of Community Affairs, and with the advice of the Public Employees' Occupational Safety and Health Advisory Board, provide for the development of State standards as may be necessary.

12:100-3A.3 Adoption of emergency temporary standards

The Commissioner shall provide for the adoption of all emergency temporary standards, amendments or changes adopted or recognized by the United States Secretary of Labor under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 et seq.). The Commissioner shall publish that Federal standard within 30 days of Federal adoption in the New Jersey Register in accordance with the provisions of N.J.S.A. 52:14B-5 and, notwithstanding the provisions of N.J.S.A. 52:14B-4, that Federal standard shall be deemed to be duly adopted as a State regulation upon its publication by the Commissioner.

SUBCHAPTER 4. GENERAL STANDARDS

12:100-4.1 Scope of subchapter; "employer" defined

(a) This subchapter shall apply to general industry safety and health standards adopted by reference.

(b) As used in this subchapter, the term employer shall mean public employer and shall not include any private employer performing under this subchapter on behalf of, or with the knowledge and ratification of, a public employer.

Amended by R.1993 d.184, effective May 3, 1993.

See: 25 N.J.R. 890(a), 25 N.J.R. 1882(a).

Revised heading; added (b).

12:100-4.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1910, General Industry Standards, with amendments published in the Federal Register through April 23, 1998 and any subsequent amendments thereto, with certain exemptions noted in (b) below, are adopted upon publication in the New Jersey Register and are incorporated herein by reference as occupational safety and health standards for the protection of public employees engaged in general operations and shall include:

1. Subpart A—General;
2. Subpart B—Adoption and Extension of Established Federal Standards;
3. Subpart D—Walking-Working Surfaces;
4. Subpart E—Means of Egress;
5. Subpart F—Powered Platforms, Man Lifts, and Vehicle-Mounted Work Platforms;
6. Subpart G—Occupational Health and Environmental Control;
7. Subpart H—Hazardous Materials;
8. Subpart I—Personal Protective Equipment;
9. Subpart J—General Environmental Controls;

10. Subpart K—Medical and First Aid;
11. Subpart L—Fire Protection except that:
 - i. Paragraph 1910.155(a) and Section 1910.156 are not adopted.
12. Subpart M—Compressed Gas and Compressed Air Equipment;
13. Subpart N—Materials Handling and Storage;
14. Subpart O—Machinery and Machine Guarding;
15. Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment;
16. Subpart Q—Welding, Cutting, and Brazing;
17. Subpart R—Special Industries;
18. Subpart S—Electrical;
19. Subpart T—Commercial Diving Operations; and
20. Subpart Z—Toxic and Hazardous Substances.

(b) Only standards relating to employee safety and health (that is, substantive rules) are adopted by any incorporation by reference as prescribed in (a) above.

Amended by R.1986 d.285, effective July 21, 1986.

See: 18 N.J.R. 811(b), 18 N.J.R. 1479(b).

(a)18i added.

Amended by R.1987 d.241, effective June 15, 1987.

See: 19 N.J.R. 48(a), 19 N.J.R. 1098(a).

(a)9i added.

Amended by R.1987 d.425, effective October 19, 1987.

See: 19 N.J.R. 267(a), 19 N.J.R. 1909(a).

New (a)9 added; old 9-17 renumbered 10-18; old 18 repealed.

Amended by R.1987 d.439, effective November 2, 1987.

See: 19 N.J.R. 1533(a), 19 N.J.R. 2060(b).

Added text "in effect on December 19, 1986".

Amended by R.1988 d.86, effective February 16, 1988.

See: 19 N.J.R. 2239(a), 20 N.J.R. 403(a).

Changed date from December 19, 1986 to September 11, 1987 and added (a)19.

Amended by R.1988 d.260, effective June 6, 1988.

See: 20 N.J.R. 726(a), 20 N.J.R. 1232(a).

Changed date for publication in the Federal Register from September 11, 1987 to December 31, 1987.

Amended by R.1988 d.436, effective September 6, 1988.

See: 20 N.J.R. 1334(a), 20 N.J.R. 2300(b).

Date changed from December 31, 1987 to April 6, 1988.

Amended by R.1989 d.82, effective February 6, 1989.

See: 20 N.J.R. 2995(a), 21 N.J.R. 299(b).

Date changed from April 6, 1988 to September 29, 1988.

Amended by R.1989 d.358, effective July 3, 1989.

See: 21 N.J.R. 1089(a), 21 N.J.R. 1829(a).

Date changed from September 29, 1988 to January 19, 1989, to include OSHA amendments to 29 CFR 1910 which were published in the Federal Register on January 19, 1989, and which include permissible exposure limits for airborne toxic and hazardous substances.

Amended by R.1989 d.476, effective September 5, 1989.

See: 21 N.J.R. 1646(a), 21 N.J.R. 2800(a).

Changes made to conform to the Code of Federal Regulations.

Amended by R.1993 d.28, effective January 4, 1993.

See: 24 N.J.R. 73(a), 25 N.J.R. 180(b).

Revised (a)10i.

Amended by R.1993 d.171, effective April 19, 1993.

See: 25 N.J.R. 455(a), 25 N.J.R. 1771(b).

Revised (a).

Amended by R.1993 d.184, effective May 3, 1993.

See: 25 N.J.R. 890(a), 25 N.J.R. 1882(a).

Revised (a).

Amended by R.1993 d.308, effective June 21, 1993.

See: 25 N.J.R. 455(a), 25 N.J.R. 2688(b).

Amended by R.1993 d.323, effective July 6, 1993.

See: 24 N.J.R. 3607(b), 25 N.J.R. 2894(a).

Administrative Correction.

See: 27 N.J.R. 1805(b).

Amended by R.1996 d.370, effective August 5, 1996.

See: 28 N.J.R. 2507(a), 28 N.J.R. 3801(a).

In (a) substituted August 10, 1994 for May 27, 1992; in (a)19, Subpart Z, deleted the exclusion of the asbestos standard and deleted the incorporation by reference of 29 CFR Part 1910.1030; and deleted subsec. (c) relating to standards in conflict with the state Uniform Construction Code Act or the state Uniform Fire Safety Act.

Amended by R.1998 d.478, effective September 21, 1998 (operative March 21, 1999).

See: 30 N.J.R. 3476(b).

Amended by R.1998 d.574, effective December 7, 1998.

See: 30 N.J.R. 3368(a), 30 N.J.R. 4240(b).

In (a), substituted "April 23, 1998 and any subsequent amendments thereto," for "August 10, 1994" following "through" and inserted "upon publication in the New Jersey Register" following "adopted" in the introductory paragraph, rewrote 1, inserted a new 2, and recodified former 2 through 19 as 3 through 20.

Amended by R.1999 d.383, effective November 1, 1999.

See: 31 N.J.R. 3341(a).

Amended by R.1999 d.383, effective November 15, 1999.

See: 31 N.J.R. 3636(a).

Amended by R.1999 d.383, effective December 6, 1999.

See: 31 N.J.R. 4060(b).

Amended by R.2000 d.56, effective February 7, 2000.

See: 32 N.J.R. 448(b).

Amended by R.2001 d.323, d.324, d.325, d.326, effective September 4, 2001, with d.323 operative January 1, 2002 and d.326 operative January 18, 2002.

See: 33 N.J.R. 2994(a), 33 N.J.R. 3009(a), 33 N.J.R. 3011(a), 33 N.J.R. 3013(a).

Amended by R.2002 d.49, d.50, effective February 4, 2002.

See: 34 N.J.R. 776(b), 778(a).

Amended by R.2003 d.27, effective January 21, 2003.

See: 35 N.J.R. 444(a).

Amended by R.2003 d.73, effective February 18, 2003.

See: 35 N.J.R. 1137(b).

Amended by R.2003 d.163, effective April 21, 2003.

See: 35 N.J.R. 1670(a).

Amended by R.2003 d.346, effective August 18, 2003.

See: 35 N.J.R. 3841(a).

Amended by R.2004 d.116, effective March 15, 2004.

See: 36 N.J.R. 1357(a).

Amended by R.2004 d.142 and 143, effective April 5, 2004.

See: 36 N.J.R. 1783(a), 1783(b).

Amended by R.2004 d.183, effective May 3, 2004.

See: 36 N.J.R. 150(a), 36 N.J.R. 2244(a).

Deleted (a)20i.

Amended by R.2004 d.284, effective July 19, 2004.

See: 36 N.J.R. 3430(a).

Amended by R.2005 d.42, effective January 18, 2005.

See: 37 N.J.R. 285(b).

Case Notes

Failure of employer to provide certain protective equipment may provide a basis for employee to leave work due to unhealthful conditions. *Sanchez v. Bd. of Review*, 206 N.J.Super. 617, 503 A.2d 381 (App.Div.1986).

12:100-4.3 Compliance with referenced standards

(a) The standards contained in N.J.A.C. 12:100-4.2 shall apply according to the provisions thereof.

(b) Each employer shall protect his or her employees by complying with the standards prescribed in N.J.A.C. 12:100-4.2.

Amended by R.1998 d.574, effective December 7, 1998.
See: 30 N.J.R. 3368(a), 30 N.J.R. 4240(b).

In (b), neutralized a gender reference.

SUBCHAPTER 5. CONSTRUCTION STANDARDS

12:100-5.1 Scope of subchapter

This subchapter shall apply to construction safety and health standards adopted by reference.

12:100-5.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1926, Construction Industry Standards with the amendments published in the Federal Register through April 23, 1998 and any subsequent amendments thereto, are adopted upon publication in the New Jersey Register and are incorporated herein by reference as occupational safety and health standards for the protection of public employees engaged in construction operations and shall include:

1. Subpart C—General Safety and Health Provisions;
2. Subpart D—Occupational Health and Environmental Controls;
3. Subpart E—Personal Protective and Life Saving Equipment;
4. Subpart F—Fire Protection and Prevention;
5. Subpart G—Signs, Signals, and Barricades;
6. Subpart H—Materials Handling, Storage, Use, and Disposal;
7. Subpart I—Tools—Hand and Power;
8. Subpart J—Welding and Cutting;
9. Subpart K—Electrical;
10. Subpart L—Scaffolding;
11. Subpart M—Fall Protection;
12. Subpart N—Cranes, Derricks, Hoists, Elevators, and Conveyors;
13. Subpart O—Motor Vehicles, Mechanized Equipment, and Marine Operations;
14. Subpart P—Excavations;
15. Subpart Q—Concrete, and Masonry Construction;
16. Subpart R—Steel Erection;
17. Subpart S—Underground Construction, Caissons, Cofferdams, and Compressed Air;

18. Subpart T—Demolition;
19. Subpart U—Blasting and Use of Explosives;
20. Subpart V—Power Transmission and Distribution;
21. Subpart W—Rollover Protective Structures; Overhead Protection;
22. Subpart X—Stairways and Ladders;
23. Subpart Y—Diving;
24. Subpart Z—Toxic and Hazardous Substances; and
25. Appendix-General Industry Standards Identified as Applicable to Construction.

(b) Only standards relating to employee safety and health (that is, substantive rules) are adopted by any incorporation by reference as prescribed in (a) above.

Amended by R.1987 d.439, effective November 2, 1987.

See: 19 N.J.R. 1533(a), 19 N.J.R. 2060(b).

Added text "in effect on July 21, 1986".

Amended by R.1988 d.260, effective June 6, 1988.

See: 20 N.J.R. 726(a), 20 N.J.R. 1232(a).

Substantially amended (a).

Amended by R.1989 d.476, effective September 5, 1989.

See: 21 N.J.R. 1646(a), 21 N.J.R. 2800(a).

Changes made to conform to the Code of Federal Regulations.

Amended by R.1990 d.216, effective April 16, 1990.

See: 22 N.J.R. 607(a), 22 N.J.R. 1270(b).

Section updated to conform to the Code of Federal Regulations.

Amended by R.1996 d.370, effective August 5, 1996.

See: 28 N.J.R. 2507(a), 28 N.J.R. 3801(a).

In (a) substituted August 10, 1994 for October 31, 1989, and deleted subsec. (c) relating to standards in conflict with the state Uniform Construction Code Act or the state Uniform Fire Safety Act.

Amended by R.1998 d.574, effective December 7, 1998.

See: 30 N.J.R. 3368(a), 30 N.J.R. 4240(b).

Rewrote (a).

Amended by R.2003, d.74, effective February 18, 2003.

See: 35 N.J.R. 1142(a).

Amended by R.2004 d.284, effective July 19, 2004.

See: 36 N.J.R. 3430(a).

Amended by R.2005 d.43, effective January 18, 2005.

See: 37 N.J.R. 286(a).

Amended by R.2005 d.58, effective February 7, 2005.

See: 37 N.J.R. 531(b).

Case Notes

OSHA standards were relevant in suit of injured business invitee to illustrate industry standards. *Smith v. Kris-Bal Realty, Inc.*, 242 N.J.Super. 346, 576 A.2d 934 (A.D.1990).

OSHA standards adopted in New Jersey could be applicable to scaffold collapse incident or recognized as prevailing safety standards in community. *Sanna v. National Sponge Co.*, 209 N.J.Super. 60, 506 A.2d 1258 (App.Div.1986).

12:100-5.3 Compliance with referenced standards

(a) The standards contained in N.J.A.C. 12:100-5.2 shall apply according to the provisions thereof.

(b) Each employer shall protect his or her employees by complying with the standards prescribed in N.J.A.C. 12:100-5.2.

Amended by R.1998 d.574, effective December 7, 1998.

See: 30 N.J.R. 3368(a), 30 N.J.R. 4240(b).

In (b), neutralized a gender reference.

SUBCHAPTER 6. AGRICULTURAL STANDARDS

12:100-6.1 Scope of subchapter

This subchapter will apply to agricultural safety and health standards adopted by reference.