

CHAPTER 112**OCCUPATIONAL SAFETY AND HEALTH REVIEW
COMMISSION RULES OF PROCEDURE****Authority**

N.J.S.A. 34:1-20, 34:1A-3(e), 34:6A-32 and 34:6A-42(c).

Source and Effective Date

R.1998 d.456, effective August 14, 1998.
See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 112, Occupational Safety and Health Review Commission Rules of Procedure, expires on February 10, 2004. See: 35 N.J.R. 3438(a).

Chapter Historical Note

Chapter 112, Occupational Safety and Health Review Commission Rules of Procedure, was adopted as R.1988 d.438, effective September 6, 1988. See: 20 N.J.R. 1165(a), 20 N.J.R. 2301(a). Pursuant to Executive Order No. 66(1978), Chapter 112, Occupational Safety and Health Review Commission Rules of Procedure, was readopted as R.1993 d.474, effective August 27, 1993. See: 25 N.J.R. 3059(a), 25 N.J.R. 4498(b).

Pursuant to Executive Order No. 66(1978), Chapter 112, Occupational Safety and Health Review Commission Rules of Procedure, was readopted as R.1998 d.456, effective August 14, 1998. See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a). As a part of R.1998 d.456, Subchapter 4, Pre-Hearing Conference, Subchapter 5, Hearings, Subchapter 6, Post Hearing Procedures, and Subchapter 7, Miscellaneous Issues, were repealed and new Subchapters 4, 5, and 6 were adopted, effective September 8, 1998. See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a). See, also, section annotations.

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SUBCHAPTER 7. (RESERVED)**SUBCHAPTER 1. GENERAL PROVISIONS****12:112-1.1 Purpose**

The purpose of this chapter is to set forth the appeal procedures of the New Jersey Public Employees Occupational Safety and Health Review Commission.

Amended by R.1998 d.456, effective September 8, 1998.
See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a).

Substituted "appeal" for "hearing" at the beginning of the sentence.

12:112-1.2 Scope

This chapter shall govern all matters, including uncontested cases, before the Review Commission. Contested cases transmitted to the Office of Administrative Law shall be governed by N.J.A.C. 1:1.

Amended by R.1998 d.456, effective September 8, 1998.
See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a).

Rewrote the paragraph.

12:112-1.3 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 Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq.

"Chairperson" means the Review Commission member designated by the Governor to serve as chairperson.

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

“Complainant” means the employer, employee or employee representative who has filed a Notice of Contest.

“Day” means a calendar day.

“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 this 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.

“Employee representative” means a “representative” as that term is defined in the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

“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.

“Non-party” means a person or entity who participates in the Review Commission proceeding as a witness or in amicus curiae capacity.

“Notice” means Notice of Contest.

“Order to comply” means a written directive issued by the Commissioner to an employer as set forth in N.J.S.A. 34:6A-41.

“Party” means either the complainant who is the employer, employee or employee representative who has filed a Notice of Contest with the Commissioner or the Commissioner who is the respondent.

“Proceeding” means any proceeding before the Review Commission.

“Review Commission” means the Occupational Safety and Health Review Commission created by N.J.S.A. 34:6A-42.

“Working day” means any Monday through Friday but shall not include Saturday, Sunday, any Federal holiday or any State holiday. In computing 15 working days, the day of receipt of any notice shall not be included.

“Workplace” means a place where public employees are assigned to work.

Recodified from N.J.A.C. 12:112-1.4 and amended by R.1998 d.456, effective September 8, 1998.

See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a).

Deleted “Agency” and “Secretary” definitions; added new “Chairperson”, “Complainant”, “Employee representative”, and “Notice” definitions; and rewrote “Party” and “Workplace”. Former N.J.A.C. 12:112-1.3, Validity, was repealed.

12:112-1.4 Computation of time

(a) In computing any period of time prescribed or allowed in this chapter, the day from which the designated period begins to run shall not be included.

(b) The last day of the period so computed shall be included unless it is a Saturday, Sunday, Federal holiday, or State holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal holiday, or State holiday.

(c) When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, Federal holidays and State holidays shall be excluded in the computation.

Recodified from N.J.A.C. 12:112-1.7 by R.1998 d.456, effective September 8, 1998.

See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a).

Former N.J.A.C. 12:112-1.4, Definitions, was recodified to N.J.A.C. 12:112-1.3.

12:112-1.5 Extension of time

Requests for extensions of time for the filing of any document shall be in writing, addressed to the Chairperson of the Review Commission and received in advance of the date on which the document is due to be filed. Extensions of time shall be honored for good cause.

Recodified from N.J.A.C. 12:112-1.8 and amended by R.1998 d.456, effective September 8, 1998.

See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a).

Substituted “Chairperson” for “Secretary”. Former N.J.A.C. 12:112-1.5, Quorum, was repealed.

12:112-1.6 Address of record

(a) The initial document filed by any party or non-party shall contain his or her name, address, and telephone number. Any change in such information shall be communicated promptly in writing to the Review Commission and to all other parties and non-parties.

(b) A party or non-party who fails to furnish such information shall be deemed to have waived his or her right to notice and service under this chapter.

Recodified from N.J.A.C. 12:112-1.9 and amended by R.1998 d.456,
effective September 8, 1998.

See: 30 N.J.R. 1893(b), 30 N.J.R. 3247(a).
Former N.J.A.C. 12:112-1.6, Voting, was repealed.