

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

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

Source and Effective Date

R.2004 d.54, effective February 2, 2004.
See: 35 N.J.R. 1041(a), 36 N.J.R. 667(a).

Chapter Expiration Date

Chapter 60, Prevailing Wages for Public Works, expires on February 2, 2009.

Chapter Historical Note

Chapter 60, Prevailing Wage Rate Determinations, was adopted 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: 30 N.J.R. 17(a), 30 N.J.R. 1292(a). Subchapter 2A, Application of the Prevailing Wage Act to Off-site Activities, was adopted as new rules by R.2002 d.380, effective November 12, 2002. See: 34 N.J.R. 2254(a), 34 N.J.R. 2549(b), 34 N.J.R. 3967(a). Chapter 60, Prevailing Wages for Public Works, expired on September 12, 2003.

Chapter 60, Prevailing Wages for Public Works, was adopted as new rules by R.2004 d.54, effective February 2, 2004. As a part of R.2004 d.54, Subchapter 3, Categories of Crafts, Trades or Classes of Workmen was repealed effective February 2, 2004 and existing Subchapters 4 through 8 were recodified as 3 through 9. See: Source and Effective Date.

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 2A. APPLICATION OF THE PREVAILING WAGE ACT TO OFF-SITE ACTIVITIES

- 12:60-2A.1 Off-site manufacturing, custom fabrication, or furnishing of materials, articles, supplies or equipment

SUBCHAPTER 3. CRITERIA FOR ESTABLISHMENT OF CRAFTS, TRADES OR CLASSES OF WORKMEN

- 12:60-3.1 Scope of subchapter
- 12:60-3.2 Criteria for establishment

SUBCHAPTER 4. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

- 12:60-4.1 Documents referred to by reference
- 12:60-4.2 Availability of documents for inspection
- 12:60-4.3 Availability of documents from issuing organization

SUBCHAPTER 5. INSPECTION OF RECORDS

- 12:60-5.1 Inspections

SUBCHAPTER 6. CRITERIA FOR DETERMINING APPRENTICE TO JOURNEYMAN RATIO

- 12:60-6.1 Definitions
- 12:60-6.2 Responsibilities of contractors and subcontractors
- 12:60-6.3 Ratio of apprentices to journeymen
- 12:60-6.4 Correction of wage rate

SUBCHAPTER 7. DEBARMENT FROM CONTRACTING

- 12:60-7.1 Purpose and scope
- 12:60-7.2 Definitions
- 12:60-7.3 Conditions of debarment
- 12:60-7.4 Notification of debarment
- 12:60-7.5 Lists

SUBCHAPTER 8. VIOLATIONS, PENALTIES, AND FEES

- 12:60-8.1 Purpose; scope
- 12:60-8.2 Violations of the Act
- 12:60-8.3 Administrative penalties
- 12:60-8.4 Administrative fees
- 12:60-8.5 Interest
- 12:60-8.6 Hearings
- 12:60-8.7 Discharge or discrimination against employee making complaint

SUBCHAPTER 9. (RESERVED)**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 \$11,892 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).

Administrative change.

See: 36 N.J.R. 3398(c).

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 2A. APPLICATION OF THE PREVAILING WAGE ACT TO OFF-SITE ACTIVITIES

Authority

N.J.S.A. 34:11-56 et seq.

Source and Effective Date

R.2002 d.380, effective November 18, 2002.
See: 34 N.J.R. 2254(a), 34 N.J.R. 2549(b), 34 N.J.R. 3967(a).

12:60-2A.1 Off-site manufacturing, custom fabrication, or furnishing of materials, articles, supplies or equipment

(a) The manufacture or furnishing of materials, articles, supplies or equipment will be subject to the Prevailing Wage Act if conducted in connection with, and at the work-site of, such public works project.

(b) The work-site shall be deemed to include the following:

1. The physical place or places where the building or work called for in the public works contract, which is subject to the terms of the Prevailing Wage Act, will remain; and

2. Any other site where a significant portion of the building or work associated therewith, is constructed, provided that such site is established specifically for the performance of the contract or project.

(c) The following shall be considered to be part of the work-site of a public works project and subject to the terms of the Prevailing Wage Act:

1. Job headquarters, tool yards, batch plants, borrow pits, custom fabrication centers and any other related manufacturing or construction site of the same contractor or a subcontractor provided that:

- i. They are dedicated exclusively or primarily, to the performance of the public works contract or building project; and
- ii. They are adjacent or virtually adjacent to the site of the work as defined in (b)1 above.

(d) Not included in the site of the work are those locations which were established by a supplier of materials for a public works construction project before the opening of bids and not on the site of the work as set forth in (b)1 and 2 above.

SUBCHAPTER 3. CRITERIA FOR ESTABLISHMENT OF CRAFTS, TRADES OR CLASSES OF WORKMEN

12:60-3.1 Scope of subchapter

This subchapter establishes the criteria to be used to classify a craft, trade or class of workmen.

12:60-3.2 Criteria for establishment

(a) The criteria used to establish a craft, trade or class of workmen shall include:

1. Work history and industry practice;
2. Training and skills;
3. Nature of the specific work in issue;
4. Craft union collective bargaining agreements and craft recognition; and
5. Governmental regulation and recognition.

(b) In establishing a craft, trade or class of workmen, the Department shall consider any relevant information, documentation or argument presented by an interested party and submitted to:

New Jersey Department of Labor
 Division of Wage and Hour Compliance
 John Fitch Plaza
 PO Box 389
 Trenton, New Jersey 08625-0389

Amended by R.1998 d.182, effective April 6, 1998.
 See: 30 N.J.R. 17(a), 30 N.J.R. 1292(a).
 In (b), changed the division reference.

SUBCHAPTER 4. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

12:60-4.1 Documents referred to by reference

The full title and edition of each of the standards and publications referred to in this chapter are as follows:

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

12:60-4.2 Availability of documents for inspection

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Wage and Hour Compliance between the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

New Jersey Department of Labor
 Division of Wage and Hour Compliance
 John Fitch Plaza
 PO Box 389
 Trenton, New Jersey 08625-0389

Amended by R.1998 d.182, effective April 6, 1998.
 See: 30 N.J.R. 17(a), 30 N.J.R. 1292(a).
 Changed the division reference.

12:60-4.3 Availability of documents from issuing organization

(a) Copies of the referred to standards and publications in this chapter may be obtained from the organization listed below or from the website of the Department of Labor at www.nj.gov/labor.

1. Copies available from:

Division of Wage and Hour Compliance
 New Jersey Department of Labor
 John Fitch Plaza
 PO Box 389
 Trenton, New Jersey 08625-0389

Amended by R.1998 d.182, effective April 6, 1998.
 See: 30 N.J.R. 17(a), 30 N.J.R. 1292(a).
 Changed the division reference.

SUBCHAPTER 5. INSPECTION OF RECORDS

12:60-5.1 Inspections

(a) The Commissioner, or an authorized designee, shall have the authority to:

1. Inspect and copy books, registers, payrolls or other records that relate to or affect wages, hours and other conditions of employment for public works employees;
2. Question public works workmen to determine whether they are aware of violations of the prevailing wage act; and
3. Require public works employers to submit written statements, including sworn statements, concerning wages, hours, names, addresses and any other employee information as may be determined necessary by the Commissioner.

(b) If, within 10 days of a request by the Commissioner, a public works employer fails to file the material listed in (a)1 or 3 above, sworn as to its accuracy, the Commissioner may, within 15 days:

1. Direct the officer responsible for disbursement of funds for the public body which contracted for the public works project to withhold from the employer 25 percent of the amount, not to exceed \$100,000, due the employer under the contract for the project.
2. When the employer complies with the request for records, the Commissioner shall notify the public body, who shall immediately release the withheld funds.

(c) The public works contractors and subcontractors shall submit to the public body or lessor which contracted for the public works project the following in a form satisfactory to the Commissioner (see Appendix A, incorporated herein by reference).

1. A certified payroll record on each public works project.
 - i. Such record shall be submitted each payroll period within 10 days of the payment of wages.
 - ii. The public body shall receive, file, store and make available for inspection at its normal place of business and during normal business hours the certified payroll records.

Amended by R.1992 d.94, effective February 18, 1992.
 See: 23 N.J.R. 2945(a), 24 N.J.R. 622(b).
 Added (c).

SUBCHAPTER 6. CRITERIA FOR DETERMINING APPRENTICE TO JOURNEYMAN RATIO

12:60-6.1 Definitions

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