

CHAPTER 100

**SAFETY AND HEALTH STANDARDS
FOR PUBLIC EMPLOYEES**

Authority

N.J.S.A. 34:1-20, 34:1A-3(c), and 34:6A-25 et seq., specifically 34:6A-30, 31 and 32.

Source and Effective Date

R.1994 d.492, effective August 26, 1994.
See: 26 N.J.R. 2776(a), 26 N.J.R. 3872(b).

Executive Order No. 66(1978) Expiration Date

Chapter 100, Safety and Health Standards for Public Employees, expires on August 26, 1999.

Chapter Historical Note

The original rules in Chapter 100, which were General Provisions of Title 12, Subtitle 1, Bureau of Migrant Labor, were filed prior to September 1, 1969, and became effective on January 1, 1970. The original rules became ineffective on April 1, 1975 with the adoption of R.1975 d.101, which was filed and effective April 16, 1975. See: 7 N.J.R. 231(a). The Migrant Labor rules were repealed by R.1978 d.288, effective August 16, 1978. See: 10 N.J.R. 258(a), 10 N.J.R. 400(d). A new Chapter 100, Safety and Health Standards for Public Employees, was filed and became effective November 5, 1984 as R.1984 d.510. See: 16 N.J.R. 2057(a), 16 N.J.R. 3051(a).

Subchapter 12 was adopted as R.1986 d.285, and Subchapter 7 was recodified as Subchapter 17, effective July 21, 1986. See: 18 N.J.R. 811(b), 18 N.J.R. 1479(b). Subchapter 9 became effective September 19, 1988 as R.1988 d.451. See: 20 N.J.R. 1523(a), 20 N.J.R. 2391(a). Subchapter 11 became effective May 1, 1989 as R.1989 d.238. See: 21 N.J.R. 620(a), 21 N.J.R. 1144(a). Subchapter 8 was adopted as R.1989 d.357, effective July 3, 1989. See: 21 N.J.R. 1094(a), 21 N.J.R. 1829(b). Pursuant to Executive Order No. 66(1978), Chapter 100 was readopted as R.1989 d.536, effective September 22, 1989. See: 21 N.J.R. 2224(a), 21 N.J.R. 3299(b). Subchapter 10, Standards for Firefighters, was adopted as R.1993 d.28, effective January 4, 1993. See: 24 N.J.R. 73(a), 25 N.J.R. 180(b).

Pursuant to Executive Order No. 66(1978), Chapter 100 was readopted as R.1994 d.492. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

12:100-1.1 Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:100, Safety and Health Standards for Public Employees.

12:100-1.2 Authority

These rules are promulgated pursuant to the authority of the New Jersey Public Employees Organizational¹ Safety and Health Act, N.J.S.A. 34:6A-25 et seq.

¹ So in original. Probably should read "Occupational".

12:100-1.3 Purpose

The purpose of this chapter is to protect employees in the public sector by providing standards, which are at least as effective as the standards promulgated under Section 6 of the Federal Occupational Safety and Health Act of 1970, 29 USC 651 et seq.

12:100-1.4 Scope

This chapter shall apply to all employers, employees, and agencies subject to N.J.S.A. 34:6A-25 et seq., New Jersey Public Employees Occupational Safety and Health Act.

Case Notes

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).

12:100-1.5 Documents referred to by reference

The availability of standards and publications referred to in this chapter is explained in N.J.A.C. 12:100-7.

12:100-1.6 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

12:100-2.1 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 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 designee.

"Division of Workplace Standards" means the Division of Workplace Standards of the New Jersey Department of Labor, CN 054, Trenton, New Jersey 08625-0054.

"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.

“Shall” means a mandatory requirement.

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

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 ...”.

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, the Commissioner of Community Affairs or the Commissioner of Health to reduce the risk of exposure to unsafe or unhealthy conditions which have been shown to be detrimental to employee health or safety. This provision shall apply for hazards not specifically covered by a standard in this chapter or a standard referenced in this chapter.

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 shall inspect under the provisions of this chapter where the provisions relate to health issues in accordance with N.J.S.A. 34:6A-37 and 34:6A-38.

(c) The New Jersey Department of Community Affairs shall inspect under the provisions of this chapter where the provisions relate to building safety, structural safety, and fire safety in accordance with N.J.S.A. 34:6A-38.

(d) The provisions of (a) through (c) 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.

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 August 10, 1994 with certain exceptions noted in (b) below are adopted 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 C—General Safety and Health Provisions;
2. Subpart D—Walking-Working Surfaces;
3. Subpart E—Means of Egress;
4. Subpart F—Powered Platforms, Man Lifts, and Vehicle-Mounted Work Platforms;
5. Subpart G—Occupational Health and Environmental Control;
6. Subpart H—Hazardous Materials;
7. Subpart I—Personal Protective Equipment;
8. Subpart J—General Environmental Controls;
9. Subpart K—Medical and First Aid;
10. Subpart L—Fire Protection except that:
 - i. Paragraph 1910.155(a) and Section 1910.156 are not adopted.
11. Subpart M—Compressed Gas and Compressed Air Equipment;
12. Subpart N—Materials Handling and Storage;
13. Subpart O—Machinery and Machine Guarding;
14. Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment;

15. Subpart Q—Welding, Cutting, and Brazing;
16. Subpart R—Special Industries;
17. Subpart S—Electrical;
18. Subpart T—Commercial Diving Operations; and
19. Subpart Z—Toxic and Hazardous Substances.
 - i. The standards contained in Subpart Z of 29 CFR Part 1910 are adopted except that the following health standard is not adopted:

1. 1910.1200. Hazard communication.

(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.

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 employees by complying with the standards prescribed in N.J.A.C. 12:100-4.2.

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 August 10, 1994, are adopted 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—Ladders and Scaffolding;
11. Subpart M—Floors and Wall Openings, and Stairways;
12. Subpart N—Cranes, Derricks, Hoists, Elevators, and Conveyors;