

3. If written comments in opposition are received, the Commissioner or his or her designee shall review the matter and, within 20 days, give notice to all parties of his or her determination. Any party may appeal this determination within 15 working days of receipt by notifying the Commissioner or his or her designee in writing that he intends to contest this decision before the Review Commission. Such appeals will be processed in accordance with procedures established for Review Commission contests in N.J.A.C. 12:110-4.12

4. If the Commissioner or his or her designee determines that the employer is not making a good faith effort to come into compliance, an Order to Comply establishing penalties shall be issued within 20 days of such determination.

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Former N.J.A.C. 12:110-4.11(a) through (c) were recodified to N.J.A.C. 12:110-4.10; former (d) and (e) were recodified as (a) and (c); added (b) and (d) through (f).

#### 12:110-4.12 Contests before the Review Commission

(a) Any employer to whom an Order to Comply citing a violation or a penalty has been issued or any employee or employee representative may notify the Commissioner or his or her designee in writing that he intends to contest such order before the Review Commission.

(b) Such notice of intent to contest in (a) above shall be postmarked within 15 working days of the issuance of the Order to Comply.

(c) Every notice of intent to contest shall specify the Order to Comply from which the appeal is taken.

(d) The Commissioner or his or her designee shall immediately transmit such notice to the Review Commission in accordance with the rules of procedure prescribed by the Review Commission.

(e) The review of a notice to contest a determination to delay issuance of an Order to Comply establishing penalties shall be limited to the issue of good faith efforts. The review of a notice of intent to contest a penalty shall be limited to issues of good faith efforts to comply and assessment levels.

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Added (e).

#### 12:110-4.13 Informal conferences

(a) An affected employer, employee or employee representative may request the initiation of a settlement conference for the purpose of discussing issues raised by an Order to Comply or a notice of intent to contest. If a party requests a settlement conference or the Commissioner or his or her designee determines that an informal settlement

conference would be useful, a settlement conference shall be scheduled and conducted by the Commissioner or his or her designee within 30 days of the receipt of the request or an appeal.

(b) If the conference is requested by the employer, affected employees and/or an employee representative shall be afforded an opportunity to participate.

(c) If the conference is requested by an employee or employee representative, the employer shall be afforded an opportunity to participate.

(d) Any party may be represented by a relevant third party at such conference.

(e) No such conference or request for such conference shall operate as a stay of any 15-working-day period for filing a notice of intent to contest as prescribed in N.J.A.C. 12:110-4.11 or 4.12.

Recodified from N.J.A.C. 12:110-4.14 and amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

#### 12:110-4.14 (Reserved)

Recodified to N.J.A.C. 12:110-4.13 by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

## SUBCHAPTER 5. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

### 12:110-5.1 Scope of subchapter

(a) This subchapter establishes procedural rules for recording and reporting occupational injuries and illnesses of public employees involving work-related deaths, injuries and illnesses, other than minor injuries which require only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or of motion, or transfer to another job.

(b) New Jersey adopted 29 CFR § 1904 by reference at N.J.A.C. 12:100-4.2, in the New Jersey Register on September 4, 2001 (33 N.J.R. 2994(a)). All requirements for the recording and reporting of work-related deaths, injuries and illnesses are contained in 29 CFR § 1904 with the following exceptions:

1. All references to the Secretary of Labor shall be deemed to mean the Commissioner of Labor of the New Jersey Department of Labor;

2. All references to OSHA shall be deemed to mean the New Jersey Department of Labor, Division of Public Safety and Occupational Safety and Health, Office of

Public Employees Occupational Safety and Health (PEOSH);

3. All references to OSHA forms 300, 300A and 301 shall be deemed to mean New Jersey Occupational Safety and Health (NJOSH) forms 300, 300A and 301;

4. 29 C.F.R. § 1904 Subpart B—Scope: New Jersey requires all public employers to record and report work-related deaths, injuries or illnesses as contained in this chapter;

5. 29 C.F.R. § 1904.1, Partial exemption for employers with 10 or fewer employees does not apply to any New Jersey Public Employer as defined in N.J.S.A. 34:6A-7(c);

6. 29 C.F.R. § 1904.2, Partial exemption for establishments in certain industries, does not apply to any New Jersey Public Employer as defined in N.J.A.C. 12:110-2; and

7. 29 C.F.R. § 1904.39: Reporting fatalities and multiple hospitalization incidents must be reported to the Office of Public Employees Occupational Safety and Health (OPEOSH) via the 24-hour hotline number (800) 624-1644, the 24-hour fax line (609) 292-3749, or in person to the OPEOSH at 225 East State Street, 8th Floor West, Trenton, NJ 08625 within eight hours of the occurrence.

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Amended by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Designated former paragraph as (a); added (b).

#### 12:110-5.2 (Reserved)

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Log and summary of occupational injuries and illnesses".

#### 12:110-5.3 (Reserved)

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Period covered".

#### 12:110-5.4 (Reserved)

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Supplementary record".

#### 12:110-5.5 (Reserved)

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Annual summary".

#### 12:110-5.6 (Reserved)

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Retention of records".

#### 12:110-5.7 (Reserved)

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Access to records".

#### 12:110-5.8 (Reserved)

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Reporting of fatality, injury or illness".

#### 12:110-5.9 (Reserved)

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Falsification, or failure to keep records or reports".

#### 12:110-5.10 (Reserved)

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Change of employer".

#### 12:110-5.11 (Reserved)

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Employees not in fixed establishments".

#### 12:110-5.12 (Reserved)

Repealed by R.2003 d.189, effective May 5, 2003.

See: 35 N.J.R. 335(a), 35 N.J.R. 1920(a).

Section was "Duties of employers".

## SUBCHAPTER 6. VARIANCES

### 12:110-6.1 Scope of subchapter

This subchapter establishes rules of practice for administrative proceedings to grant variances under N.J.S.A. 34:6A-39.

### 12:110-6.2 Effect of variances

All variances from a standard which are granted pursuant to N.J.S.A. 34:6A-39 shall have only future effect. In his discretion, the Commissioner may decline to entertain an application for a variance on a subject or issue when an order has been issued to the employer involved and a proceeding on the order or a related issue concerning a proposed penalty is pending before the Review Commission.

Amended by R.1998 d.33, effective January 5, 1998.

See: 29 N.J.R. 4440(a), 30 N.J.R. 80(a).