

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”.

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 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).

## 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.

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.

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).

#### 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;