

56 N.J.R. 2265(a)

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RULE PROPOSALS

Reporter

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LABOR AND WORKFORCE DEVELOPMENT -- DIVISION OF WAGE AND HOUR COMPLIANCE

Interested Persons Statement

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

Agency

LABOR AND WORKFORCE DEVELOPMENT > DIVISION OF WAGE AND HOUR COMPLIANCE

Administrative Code Citation

Proposed Readoption: N.J.A.C. 12:102

Text

Seasonal Farm Workers

Authorized By: Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20, 34:1A-3.e, and 34:9A-37 et seq.

Calendar Reference: See Summary below for explanation of exception to the calendar requirement.

Proposal Number: PRN 2024-139.

Submit written comments by January 31, 2025, to:

David Fish, Executive Director
Office of Legal and Regulatory Services
New Jersey Department of Labor and Workforce Development
PO Box 110-13th Floor
Trenton, New Jersey 08625-0110

Email: david.fish@dol.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1.c, N.J.A.C. 12:102, Seasonal Farm Workers, was scheduled to expire on November 6, 2024. As the Department of Labor and Workforce Development (Department) filed this notice of proposal for the readoption of N.J.A.C. 12:102 before November 6, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2), the expiration date was extended 180 days to May 5, 2025. The Department has reviewed N.J.A.C. 12:102 and has determined the chapter to be necessary, reasonable, and proper for the purposes for which it was originally promulgated. Accordingly, the Department proposes that N.J.A.C. 12:102 be readopted.

A summary of N.J.A.C. 12:102 follows:

N.J.A.C. 12:102-1.1 sets forth the purpose and scope of the chapter.

N.J.A.C. 12:102-1.2 defines words and terms used throughout the chapter.

N.J.A.C. 12:102-1.3 addresses the availability of water to field workers.

N.J.A.C. 12:102-1.4 sets forth standards concerning water containers.

N.J.A.C. 12:102-1.5 lists the requirements for toilet facilities and provides a table with specifications for the number of seat-type facilities that must be provided.

N.J.A.C. 12:102-1.6 addresses hand washing facilities.

N.J.A.C. 12:102-1.7 provides penalties for failure to comply with the provisions of the chapter.

N.J.A.C. 12:102-1.8 provides for exemptions from certain requirements set forth in the chapter.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption would continue to have a positive social impact in that they would assist the Department in ensuring a sanitary and hygienic workplace for seasonal farm workers. Ameliorating the working conditions of seasonal farm workers can only be of benefit to them and to the State at large.

Economic Impact

The rules proposed for readoption should have no impact upon existing farm operators, as they have already established facilities that comply with both State and Federal requirements for field sanitation. New farm operators will incur whatever costs are associated with the installation of [page=2266] water containers and the establishment of toilet and hand washing facilities.

Federal Standards Statement

The rules proposed for readoption impose minimum field sanitation standards upon all farm operators, including farm operators where 10 or fewer seasonal farm workers are working in a field, whereas the Federal regulations (29 CFR 1928.110) apply such standards only to farms where there are more than 10 seasonal farm workers working in a field. It is in this regard that the rules proposed for readoption exceed Federal requirements.

N.J.S.A. 34:9A-38 explicitly states that "[a]t any farm where seasonal farm workers labor in a field that is an unreasonable distance from central facilities, the farm operator shall provide in the working area a sufficient supply of cool, potable water, and for each sex sufficient, suitable and separate privies or other toilet facilities which shall be properly screened, ventilated and kept clean and suitable facilities for washing of hands." The law makes no distinction between farm operators based on the number of farm workers working in the field. Rather, it requires the application of appropriate sanitation standards to all farm operators. The Department has no discretion to deviate from this statutory mandate.

Regarding cost, as indicated above, the Department believes that most farm operators already possess the equipment necessary to comply with these rules. For those farm operators who do not already possess the necessary equipment, the cost of such items would not be unduly burdensome. Furthermore, the cost would be outweighed by the need to provide farm workers laboring long hours in open fields with sufficient drinking, washing, and toilet facilities in an appropriate location proximate to the worksite.

Jobs Impact

The Department does not anticipate that the rules proposed for readoption would result in either the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption would continue to promote clean and convenient facilities for seasonal farm workers and would have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption would have minimal impact in terms of imposing additional costs on businesses of any type, including small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As indicated above, existing farmers have already established facilities that comply with regulatory requirements for field sanitation and new farmers would incur whatever costs are associated with the installation of water containers and the establishment of toilet and hand washing facilities. The costs are minimal and are intended to ensure that the most rudimentary needs of farm workers are met; namely, clean water for drinking and hand washing and appropriate toilet facilities. Any costs incurred by farmers in order to comply with these rules would be outweighed by the necessity to provide a healthy and safe working environment for farm workers. No professional services would be required to comply with the field sanitation standards.

Housing Affordability Impact Analysis

It is not anticipated that the rules proposed for readoption would evoke a change in the average costs associated with housing, nor would they have any effect on the affordability of housing in the State. The basis for this finding is that the rules proposed for readoption impose minimum field sanitation standards upon farm operators and do not pertain to housing.

Smart Growth Development Impact Analysis

It is not anticipated that the rules proposed for readoption would evoke a change in the housing production within Planning Areas 1 and 2, or within designated centers, pursuant to the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for readoption impose minimum field sanitation standards upon farm operators and do not pertain to housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere else in the State of New Jersey.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commissioner of the Department has evaluated this rulemaking and determined that it would not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:102.

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