

## LABOR AND WORKFORCE DEVELOPMENT

### DIVISION OF WAGE AND HOUR COMPLIANCE

N.J.A.C. 12:56-3.1, 3.2 and 3.3

Notice of Administrative Changes

Minimum Wage

**Take notice** that the Department of Labor and Workforce Development has requested, and the Office of Administrative Law has agreed to permit, administrative changes to N.J.A.C. 12:56-3.1(a); 12:56-3.2(a) and 12:56-3.3(a).

N.J.A.C. 12:56-3.1(a) states: “Except as provided at N.J.A.C. 12:56-3.2, 3.3, 3.4, and 3.5, every employee shall, effective January 1, 2020, be paid not less than \$11.00 per hour or the minimum wage rate set by section 6(a)(1) of the Federal "Fair Labor Standards Act of 1938" (29 U.S.C. § 206(a)(1), whichever is greater.” Pursuant to N.J.A.C. 12:56-3.1(b), for the period from January 1, 2020 through January 1, 2024, on an annual basis, on or about September 30, the Department shall revise the minimum hourly wage rate, “so as to be the greater of either an amount based on any percentage increase during the one-year period of August of the prior year through August of the current year of the consumer price index (CPI) for all urban wage earners and clerical workers (CPI-W, U.S. City Average), as released by the United States Department of Labor, Bureau of Labor Statistics” or the following: “for January 1, 2020, \$11.00; for January 1, 2021, \$12.00; for January 1, 2022, \$13.00; for January 1, 2023, \$14.00; and for January 1, 2024, \$15.00.” N.J.A.C. 12:56-3.1 indicates further that the Department shall annually, (1) through a public notice published in the New Jersey Register, provide the new minimum hourly wage rate, and (2) no later than September 30 of each year, publish the public notice on the Department’s

website. The percent increase in the CPI-W, U.S. City Average, for the one-year period, August 2020 through August 2021 is 5.83 percent. That is, the CPI-W, U.S. City Average, in August 2020 was 253.597, and in August 2021 it was 268.387. Consequently, the change in the index over the period equaled 14.790 or an increase of 5.83 percent ( $14.790/253.597 \times 100$ ). Using as a base for the CPI-adjustment the current New Jersey minimum hourly wage rate of \$12.00, a 5.83 percent increase (rounded to the nearest penny) is \$0.70, which would result in a CPI-adjusted minimum hourly wage rate of \$12.70. Since \$12.70 is less than the \$13.00 rate set forth at N.J.A.C. 12:56-3.1(b)2 for January 1, 2022, pursuant to N.J.S.A. 34:11-56a4(a) and N.J.A.C. 12:56-3.1(b), the State minimum hourly wage rate, effective January 1, 2022, must be changed from \$12.00 to \$13.00.

N.J.A.C. 12:56-3.2(a) states: “Except as provided at N.J.A.C. 12:56-3.3 and 3.4, every employee of a small employer and every employee who is engaged in seasonal employment shall, effective January 1, 2020, be paid not less than \$10.30 per hour or the minimum wage rate set by section 6(a)(1) of the Federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), whichever is greater.” Pursuant to N.J.A.C. 12:56-3.2(b), for the period from January 1, 2020 through January 1, 2026, on an annual basis, on or about September 30, the Department shall revise the minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment, “so as to be the greater of either an amount based on any percentage increase during the one-year period of August of the prior year through August of the current year of the consumer price index (CPI) for all urban wage earners and clerical workers (CPI-W, U.S. City Average), as released by the United States Department of Labor, Bureau of Labor Statistics” or the following: “for January 1, 2020, \$10.30; for January 1, 2021, \$11.10; for January 1, 2022, \$11.90; for January 1, 2023, \$12.70; for January 1, 2024, \$13.50; for January 1,

2025, \$14.30; and for January 1, 2026, \$15.00.” N.J.A.C. 12:56-3.2 indicates further that the Department shall annually, (1) through a public notice published in the New Jersey Register, provide the new minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment, and (2) no later than September 30 of each year, publish the public notice on the Department’s website. Using as a base for the CPI-adjustment the current New Jersey minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment of \$11.10, a 5.83 percent increase (rounded to the nearest penny) is \$0.65, which would result in a CPI-adjusted minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment of \$11.75. Since \$11.75 is less than the \$11.90 rate set forth at N.J.A.C. 12:56-3.2(b)2 for January 1, 2022, pursuant to N.J.S.A. 34:11-56a4(c) and N.J.A.C. 12:56-3.2(b), the State minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment, effective January 1, 2022, must be changed from \$11.10 to \$11.90.

N.J.A.C. 12:56-3.3(a) states: “Every employee engaged on a piece-rate or regular hourly rate basis to labor on a farm shall, effective January 1, 2020, be paid not less than \$10.30 per hour or the minimum wage rate set by section 6(a)(1) of the Federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), whichever is greater.” Pursuant to N.J.A.C. 12:56-3.3(b) and (c), for the period from January 1, 2020 through January 1, 2027, on an annual basis, on or about September 30, the Department shall revise the minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm, “so as to be the greater of either an amount based on any percentage increase during the one-year period of August of the prior year through August of the current year of the consumer price index (CPI) for all urban wage earners and clerical workers (CPI-W, U.S. City Average), as released by the United States

Department of Labor, Bureau of Labor Statistics” or the following: “for January 1, 2020 \$10.30; for January 1, 2021, \$10.30; for January 1, 2022, \$10.90; for January 1, 2023, \$11.70; for January 1, 2024, \$12.50; for January 1, 2025, \$13.40; for January 1, 2026, \$14.20; and for January 1, 2027, \$15.00.” N.J.A.C. 12:56-3.3 indicates further that the Department shall annually, (1) through a public notice published in the New Jersey Register, provide the new minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm and (2) no later than September 30 of each year, publish the public notice on the Department’s website. Using as a base for the CPI-adjustment the current New Jersey minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm of \$10.44, a 5.83 percent increase (rounded to the nearest penny) is \$0.61, which would result in a CPI-adjusted minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment of \$11.05. Since \$11.05 is more than the \$10.90 rate set forth at N.J.A.C. 12:56-3.3(b)2 for January 1, 2022, pursuant to N.J.S.A. 34:11-56a4(d) and N.J.A.C. 12:56-3.3(b), the State minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm, effective January 1, 2022, must be changed from \$10.44 to \$11.05.

On the basis of the foregoing, the following administrative changes must be made:

(1) To N.J.A.C. 12:56-3.1(a): the date, January 1, 2021, must be replaced by the date, January 1, 2022, and the amount, \$12.00, must be replaced by the amount, \$13.00.

(2) To N.J.A.C. 12:56-3.2(a): the date, January 1, 2021, must be replaced by the date, January 1, 2022, and the amount, \$11.10, must be replaced by the amount, \$11.90.

(3) To N.J.A.C. 12:56-3.3(a): the date, January 1, 2021, must be replaced by the date, January 1, 2022, and the amount, \$10.44, must be replaced by the amount, \$11.05.

**Full text** of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

12:56-3.1 Statutory minimum wage rates for specific years

(a) Except as provided at N.J.A.C. 12:56-3.2, 3.3, 3.4, and 3.5, every employee shall, effective [January 1, 2021] **January 1, 2022**, be paid not less than [\$12.00] **\$13.00** per hour or the minimum wage rate set by section 6(a)(1) of the Federal "Fair Labor Standards Act of 1938" (29 U.S.C. § 206(a)(1), whichever is greater.

(b)-(d) (No change.)

12:56-3.2 Statutory minimum wage rate for specific years; small and seasonal employees

(a) Except as provided at N.J.A.C. 12:56-3.3 and 3.4, every employee of a small employer and every employee who is engaged in seasonal employment shall, effective [January 1, 2021] **January 1, 2022**, be paid not less than [\$11.10] **\$11.90** per hour or the minimum wage rate set by section 6(a)(1) of the Federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), whichever is greater.

(b)-(f) (No change.)

12:56-3.3 Statutory minimum wage rate for specific years; labor on a farm

(a) Every employee engaged on a piece-rate or regular hourly rate basis to labor on a farm shall, effective [January 1, 2021] **January 1, 2022**, be paid not less than [\$10.44] **\$11.05** per hour or the minimum wage rate set by section 6(a)(1) of the Federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), whichever is greater.

(b)-(i) (No change.)