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RULE ADOPTIONS

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

46 N.J.R. 817(a)

Readoption: *N.J.A.C. 12:64*

Notice of Readoption

Prevailing Wage for Building Services

Authority: *N.J.S.A. 34:11-56.58* et seq., specifically 34:11-56.69.

Authorized By: Harold J. Wirths, Commissioner, Department of Labor and Workforce Development.

Effective Date: April 7, 2014.

New Expiration Date: April 7, 2021.

Take notice that pursuant to the provisions of Executive Order No. 66 (1978) and *N.J.S.A. 52:14B-5.1*, the rules at *N.J.A.C. 12:64* will expire on May 7, 2014. These rules were originally promulgated in order to implement the State Building Service Contracts Act, P.L. 2005, c. 379, *N.J.S.A. 34:11-56.58* et seq. (the Act), which requires the payment of a prevailing wage rate to workers employed or engaged by contractors furnishing building services for any property or premises owned or leased by the State.

A summary of the subchapters of *N.J.A.C. 12:64* follows:

N.J.A.C. 12:64-1 sets forth the purpose and scope of the chapter and definitions of the terms used throughout the chapter.

N.J.A.C. 12:64-2 addresses the responsibilities of contractors and contracting State agencies under the Act. Specifically, the subchapter requires the inclusion of certain provisions within a contract between a State contracting agency and a contractor to furnish building services for a property or premises owned or leased by the State. Each of the required contract provisions under *N.J.A.C. 12:64-2.1* reflects a requirement contained within the Act. In addition, the subchapter addresses the manner in which contractors are required to compensate workers who perform multiple classes of work, the manner in which contractors are required to compensate workers who are covered by a collective bargaining agreement, the type of records that contractors are required to keep with regard to workers performing building ser-

vices pursuant to a State contract, and the manner in which those records are to be kept. Each of these requirements is consistent with the Act.

N.J.A.C. 12:64-3 addresses the Department's right to inspect records of the contractor, privately question employees or managerial executives of the contractor, including building services workers, and require the contractor to submit written statements, including sworn statements, concerning monetary wages, fringe benefits, hours, names, addresses, and other information pertaining to the contractor's workers and their work. Subchapter 3 also addresses the sanctions which may be imposed against a contractor who refuses to file material requested of the contractor pursuant to the Commissioner's statutory inspection powers. Each of these requirements is consistent with the Act.

N.J.A.C. 12:64-4 addresses what constitutes a violation of the Act by a contractor. The subchapter also addresses the levying of penalties by the Department for violations of the Act or this subchapter and sets forth the procedures to be followed when an alleged violator requests a formal hearing with regard to the imposition of a penalty. Furthermore, Subchapter 4 addresses the remitting of administrative fees to the Department by contractors on all payments due to workers, pursuant to *N.J.S.A. 34:11-56.65*, and also addresses the payment by contractors, under certain circumstances, of interest on awards of back pay.

The Department of Labor and Workforce Development has reviewed these rules and has determined that the rules should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to *N.J.S.A. 52:14B-5.1.c(1)*, these rules are readopted and shall continue in effect for a seven-year period.