

38 N.J.R. 4982(a)

LEXSTAT 38 N.J.R. 4982(A)

NEW JERSEY REGISTER

Copyright © 2006 by the New Jersey Office of Administrative Law

VOLUME 38, ISSUE 23

ISSUE DATE: DECEMBER 4, 2006

RULE PROPOSALS

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

38 N.J.R. 4982(a)

Proposed Readoption with Amendments: *N.J.A.C. 12:210*

Apparel Industry Registration

Authorized By: David J. Socolow, Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 34:1-20, 34:1A-3(e)*, and *34:6-144* et seq.

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

Proposal Number: PRN 2006-389.

A **public hearing** on the proposed readoption with amendments will be held on the following date at the following location:

Thursday, January 11, 2007
10:00A.M. to 12:00 Noon
New Jersey Department of Labor and Workforce Development
John Fitch Plaza
1st Floor, Conference Room
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by February 2, 2007 to:

David Fish, Regulatory Officer
Office of Legal and Regulatory Services
New Jersey Department of Labor and Workforce Development
P.O. Box 110 - 13th Floor
Trenton, New Jersey 08625-0110
Fax to: (609) 292-8246

If you need this document in Braille, large print or audio cassette, contact the Office of Marketing at (609) 292-7832 or NJ Relay (TTY) 1-800-852-7899.

The agency proposal follows:

Summary

Pursuant to *N.J.S.A. 52:14B-5.1c, N.J.A.C. 12:210*, Apparel Industry Registration, is scheduled to expire on April 23, 2007. The Department has reviewed these rules and, with the exception of technical amendments made throughout the chapter which reflect a change in the name of the Department from the "Department of Labor" to the "Department of Labor and Workforce Development," has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated. Accordingly, the Department proposes that *N.J.A.C. 12:210* be readopted, with amendments.

A summary of the sections of *N.J.A.C. 12:210* follows:

N.J.A.C. 12:210-1.1 sets forth the purpose and scope of the chapter.

N.J.A.C. 12:210-1.2 defines the words and terms used throughout the chapter.

N.J.A.C. 12:210-1.3 sets forth requirements for registration.

N.J.A.C. 12:210-1.4 concerns the establishment of the Apparel Industry Unit.

N.J.A.C. 12:210-1.5 addresses violations and penalties.

N.J.A.C. 12:210-1.6 concerns recordkeeping by manufacturers and contractors.

N.J.A.C. 12:210-1.7 sets forth the procedure for payment of a surety bond.

N.J.A.C. 12:210-1.8 sets forth the procedure for requesting a hearing regarding the assessment of an administrative or civil penalty by the Commissioner.

N.J.A.C. 12:210-1.9 concerns confiscation of apparel and equipment.

N.J.A.C. 12:210-1.10 requires the Department to maintain, a list of all manufacturers and contractors who have been found to have violated the chapter and to make that list public.

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 with amendments will continue to ensure that all apparel manufacturers and contractors who conduct business within the State of New Jersey will comply with the State laws and rules concerning wages and hours, child labor, unemployment, temporary disability insurance, workers' compensation and the payment of payroll taxes, to the benefit of the employees of the garment industry. The rules proposed for readoption with amendments will also continue to assist the Department in ensuring that workers are employed in safe and healthy work environments and not subjected to any unlawful labor practices. In addition, they will protect law abiding manufacturers and contractors from the effects of unfair competition caused by violations of the Act.

Economic Impact

The rules proposed for readoption with amendments will continue to require the payment of a registration fee, but will also continue to prorate the initial costs of registration where the certification of registration is for less than 12 months. Workers will continue to experience a positive economic impact, since the rules proposed for readoption seek to ensure that they are employed in a legitimate, regulated workplace where they will receive appropriate wages in accordance with State wage and hour laws. The rules proposed for readoption will impose costs on those employers who violate the Act in the form of administrative and civil penalties, the confiscation of goods and/or equipment and, in certain circumstances, the payment of a surety bond. These costs are statutorily mandated and are necessary to protect the health, safety and welfare of workers.

Federal Standards Statement

There are no Federal standards or requirements which impact the rules proposed for readoption or the proposed amendments.

Jobs Impact

The Department does not anticipate an increase or decrease in jobs as a result of the rules proposed for readoption or the proposed amendments.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments will continue to impose reporting, recordkeeping and compliance requirements on all manufacturers, contractors, subcontractors, jobbers or wholesalers who conduct business in the apparel industry within the State of New Jersey, some of which are small businesses as that term is defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq. Employers are required to register with the Department annually. The cost of registration is \$ 300.00. Employers are also required to keep accurate records regarding each of their employees during the preceding three years. These records include the name and address of each production employee and the age of minor production employees, time and payroll records for each production employee, the number of pieces per hour when piece rate is paid, and contract worksheets indicating the price per unit agreed. Lesser standards are not provided for small businesses, since it is important to ensure that all businesses, regardless of size, comply with the Apparel Registration Act as well as other labor laws designed to protect workers. Employers who fail to comply with these laws are subject to costs in the form of administrative and civil penalties and surety bonds. Some labor laws also subject non-complying employers to administrative fees. Employers will not require outside professional services to comply with these rules.

Smart Growth Impact

The rules proposed for readoption and the proposed amendments would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at *N.J.A.C. 12:210*.

Full text of the proposed amendments follows (additions indicated in boldface **thus**):

12:210-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Commissioner" means the Commissioner of Labor **and Workforce Development**.

"Department" means the Department of Labor **and Workforce Development**.

...

12:210-1.5 Violations; penalties

(a)-(b) (No change.)

(c) Penalties shall be payable to the Commissioner of Labor **and Workforce Development**, Apparel Registration.

(d)-(g) (No change.)

(h) As an alternative or in addition to any other sanction provided for in *N.J.S.A. 34:6-149(e)* when the Commissioner of Labor **and Workforce Development** finds that an employer has violated the Act, the Commissioner is authorized to assess and collect an administrative penalty in the amounts that follow:

1.-2. (No change.)

(i) (No change.)