

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); 12:56-3.3(a); 12:56-3.1(b); 12:56-3.2(b); 12:56-3.3(b); and 12:56-3.3(c).

Under N.J.S.A. 34:11-56a4(a) and N.J.A.C. 12:56-3.1, for the period from January 1, 2020 through January 1, 2024, the minimum hourly wage rate is to be adjusted annually so that it is 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; and on January 1 of each year from 2021 to 2024, inclusive, an amount equal to \$1.00 more than the minimum hourly wage rate from the preceding year. 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 2022 through August 2023 is 3.40 percent. That is, the CPI-W, U.S. City Average, in August 2022 was 291.629, and in

August 2023 it was 301.551. Consequently, the change in the index over the period equaled 9.922 or an increase of 3.40 percent ($9.922/291.629 \times 100$). Using as a base for the CPI-adjustment the current New Jersey minimum hourly wage rate of \$14.13, a 3.40 percent increase (rounded to the nearest penny) is \$0.48, which would result in a CPI-adjusted minimum hourly wage rate of \$14.61. Since \$14.61 is less than the \$15.13 rate established under N.J.S.A. 34:11-56a4(a) for January 1, 2024, the State minimum hourly wage rate, effective January 1, 2024, must be changed from \$14.13 to \$15.13.

Under N.J.S.A. 34:11-56a4(c) and N.J.A.C. 12:56-3.2, for the period from January 1, 2020 through January 1, 2026, the minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment is to be adjusted annually so that it is 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; on January 1 of each year from 2021 to 2025, inclusive, an amount equal to \$0.80 more than the minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment from the preceding year; and for January 1, 2026, an amount equal to \$0.70 more than the minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment from the preceding year. 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 \$12.93, a 3.40 percent increase (rounded to the nearest penny) is \$0.44, 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 \$13.37. Since \$13.37 is less than the \$13.73 rate established under N.J.S.A. 34:11-56a4(c) for January 1, 2024, the State minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment, effective January 1, 2024, must be changed from \$12.93 to \$13.73.

Under N.J.S.A. 34:11-56a4(d) and N.J.A.C. 12:56-3.3, for the period from January 1, 2020 through January 1, 2027, the minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm is to be adjusted annually so that it is 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; on January 1 of each year from 2023 to 2024, inclusive, an amount equal to \$0.80 more than the minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm from the preceding year; for January 1, 2025, \$13.40; and on January 1 of each year from 2026 to 2027, inclusive, an amount equal to \$0.80 more than the minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm from the preceding year. 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 \$12.01, a 3.40 percent increase (rounded to the nearest penny) is \$0.41, which would result in a CPI-adjusted minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm of \$12.42. Since \$12.42 is less than the \$12.81 rate established under N.J.S.A. 34:11-56a4(d) for January 1, 2024, 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, 2024, must be changed from \$12.01 to \$12.81.

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, 2023, must be replaced by the date, January 1, 2024, and the amount, \$14.13, must be replaced by the amount, \$15.13.

(2) To N.J.A.C. 12:56-3.2(a): the date, January 1, 2023, must be replaced by the date, January 1, 2024, and the amount, \$12.93, must be replaced by the amount, \$13.73.

(3) To N.J.A.C. 12:56-3.3(a): the date, January 1, 2023, must be replaced by the date, January 1, 2024, and the amount, \$12.01, must be replaced by the amount, \$12.81.

There are also administrative changes that must be made to N.J.A.C. 12:56-3.1(b), 12:56-3.2(b), 12:56-3.3(b), and 12:56-3.3(c), to ensure consistency between each of those rules and N.J.S.A. 34:11-56a4.

The administrative change to N.J.A.C. 12:56-3.1(b) would also account for the fact that the CPI-adjusted minimum hourly wage rate for January 1, 2023 (\$14.13) exceeded the statutory

minimum hourly wage rate for that year (\$14.00), resulting in the establishment of a minimum hourly wage rate for 2023 of \$14.13, thereby altering the 2024 minimum hourly wage rate calculation.

The administrative change to N.J.A.C. 12:56-3.2(b) would also account for the fact that the CPI-adjusted minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment for January 1, 2023 (\$12.93) exceeded the statutory minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment for that year (\$12.70), resulting in the establishment of a minimum hourly wage rate for employees of small employers and employees who are engaged in seasonal employment for 2023 of \$12.93, thereby altering minimum hourly wage rate calculation for 2024, 2025 and 2026.

Finally, the administrative change to N.J.A.C. 12:56-3.3(b) would also account for the fact that the CPI-adjusted minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm for January 1, 2022 (\$11.05) exceeded the statutory minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm for that year (\$10.90), and that the CPI-adjusted minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm for January 1, 2023 (\$12.01) exceeded the statutory minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm for that year (\$11.70); resulting in the establishment of a minimum hourly wage rate for employees engaged on a piece-rate or regular hourly rate basis to labor on a farm for 2022 of \$11.05, and for 2023 of \$12.01, thereby altering the minimum hourly wage rate calculation for 2023 and 2024.

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, 2023] **January 1, 2024**, be paid not less than [\$14.13] **\$15.13** 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) For the period from January 1, 2020 through January 1, 2024, on an annual basis, on or about September 30, the Department shall, through a public notice published in the New Jersey Register, revise the minimum hourly wage set forth in (a) above, so as to be the greater of either an amount based 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:

1. - 4. (No change.)

5. For January 1, 2024, [\$15.00] **\$15.13**.

(c) – (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, 2023] **January 1, 2024**, be paid not less than [\$12.93] **\$13.73** 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) For the period from January 1, 2020 through January 1, 2026, on an annual basis, on or about September 30, the Department shall, through a public notice published in the New Jersey Register, revise the minimum hourly wage set forth in (a) above, 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:

1. – 4. (No change.)

5. For January 1, 2024, [\$13.50] **\$13.73**;

6. For January 1, 2025, [\$14.30] **\$14.53**; and

7. For January 1, 2026, [\$15.00] **an amount equal to \$0.70 more than the rate of the preceding year.**

(c) – (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, 2023] **January 1, 2024**, be paid not less than [\$12.01] **\$12.81** 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) For the period from January 1, 2020 through January 1, 2024, on an annual basis, on or about September 30, the Department shall, through a public notice in the New Jersey Register, revise the minimum hourly wage set forth in (a) above, 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:

- 1. -3. (No change.)
- 4. For January 1, 2023, [\$11.70] **\$11.85**
- 5. For January 1, 2024, [\$12.50] **\$12.81**

(c) For the period from January 1, 2025 through January 1, 2027, on an annual basis on or about September 30, the Department shall, through a public notice published in the New Jersey Register, revise the minimum hourly wage set forth in (a) above, 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:

1. (No change)

2. For January 1, 2026, [\$14.20] **an amount equal to \$0.80 more than the rate of the preceding year; and**

3. For January 1, 2027, [\$15.00] **an amount equal to \$0.80 more than the rate of the preceding year.**

(d) – (i) (No change.)