

i. Nonprofits seeking bulk access must follow the procedures set forth at N.J.A.C. 17:34-3 and add a written statement to their requests indicating that they wish to obtain the requested records/reports for a nonrecurring nonprofit purpose. [DOR/BSSB] **DORES** may require the requester provide additional documentation to establish the requester's nonprofit credentials and/or to determine nature of the intended use of the requested records/reports.

ii. If the request is granted, [DOR/BSSB] **DORES** and the requester shall complete the bulk access process in accordance with the procedures set forth at N.J.A.C. 17:34-3.2, except that the direct cost of reproduction shall be substituted for the fee amount.

iii. (No change.)

2. Limited informational lists on the Internet. The direct cost criterion may be applied in cases where [DOR/BSSB] **DORES** provides limited informational list services on the Internet as a convenience to the general public and business community. Such list services may be basic abstracts of commercial recording records on file with [DOR/BSSB] **DORES** and may be drawn from secondary information sources such as duplicate computer files established for Internet information access services. The procedures for accessing informational lists shall be set forth on the applicable Internet site.

(b) On-site self-copying. To facilitate the implementation of New Jersey's revised Uniform Commercial Code bulk copying provisions (N.J.S.A. 12A:9-523(f)), [DOR/BSSB] **DORES** may allow a requester to copy Uniform Commercial Code records at [DOR/BSSB's] **DORES'** work site using his or her own equipment and personnel. Self-copying will only be allowed if such operations pose no risks of disrupting [DOR/BSSB's] **DORES'** routine services or of compromising the security or integrity of the State's commercial recording record systems. [DOR/BSSB] **DORES** shall, at its sole discretion, determine whether any requested self-copying operation poses an unacceptable risk to service levels or system security/integrity. [DOR/BSSB] **DORES** shall publish bulk self-copying fees in accordance with the procedures set forth at N.J.A.C. 17:34-2.1.

1. Persons requesting on-site self-copying must follow the procedures set forth at N.J.A.C. 17:34-3 and add a written statement to their requests indicating that they wish to perform on-site self-copying. [DOR/BSSB] **DORES** may require the requester provide additional documentation to determine the nature and scope of the requested self-copying operation.

i. If the request is granted, [DOR/BSSB] **DORES** and the requester shall complete the bulk access process in accordance with the procedures set forth at N.J.A.C. 17:34-3.2.

ii. (No change.)

(a)

DIVISION OF REVENUE AND ENTERPRISE SERVICES

Division of Commercial Recording Expedited Service, Preclearance Service, Trade Mark/Service Mark Program, and Facsimile Filing Service

Proposed Readoption with Amendments: N.J.A.C. 17:35

Authorized By: Robert A. Romano, Acting State Treasurer.
 Authority: N.J.S.A. 14A:1-1 et seq., 14A:1-10, 42:2C-1 et seq., 52:16A-11, 56:1-1 et seq., and 56:3-1 et seq.

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

Proposal Number: PRN 2015-164.

Submit comments by February 5, 2016, to:

Peter Lowicki
 Deputy Director, New Jersey Division of Revenue and Enterprise Services
 PO Box 308
 33 West State Street, 5th Floor

Trenton, NJ 08646-0308

Attn: Expedited and Other Commercial Recording Programs/Readoption

Fax: 609-984-6832

E-mail: peter.lowicki@treas.nj.gov

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), and N.J.S.A. 52:14B-5.1.c(2), N.J.A.C. 17:35 will expire on June 1, 2016. These rules encompass policies and procedures for the State of New Jersey's expedited commercial recording services, as well as for the State's preclearance and facsimile services for various business entity filings. They also set forth name availability criteria for business entities and detailed procedures for the State's trade/service mark program.

The Division of Revenue and Enterprise has reviewed these rules and has determined them to be necessary, reasonable, and with the proposed amendments, adequate, efficient, and responsive for the purpose for which they were originally, and are now, promulgated.

Generally, the subchapters are amended to reflect the current designation of the Filing Office, the Division of Revenue and Enterprise Services.

A summary of each subchapter proposed for readoption with amendments follows.

Subchapter 1 details the basic elements of the State's expedited commercial recording service. This includes a listing of service offerings, definitions, fees, processing timeframe exceptions and payment methods. The subchapter is amended to reflect the Filing Office's long-standing practice of offering expedited services for any type of business entity filing and for retrieval of records/information pertaining to any filed business entity. Also included are amendments that clarify the different levels and types of expedited services and delivery cut-offs for expedited work requests. Finally, the subchapter is amended to reflect that electronic methods are permitted as payment options. As has been done historically with credit card payments, the rules specify the user may be charged a separate fee to cover reasonable service fees that are incurred in processing credit card electronic payments.

Subchapter 2 outlines the State's document preclearance process, including the types of documents that may be precleared, submission procedures, fees, and payment methods. The subchapter is amended to allow for electronic submission of requests. The subchapter is also amended to reflect that electronic methods are permitted as payment options. As has been done historically with credit card payments, the rules specify the user may be charged a separate fee to cover reasonable service fees that are incurred in processing credit card electronic payments.

Subchapter 3 describes the criteria that the State uses for business entity name availability. This encompasses an operational definition of business name distinguishability. The subchapter is amended to reflect that all types of legal entities - corporations, limited liability companies, limited liability partnerships, and limited partnerships - are covered by the criteria.

Subchapter 4 contains policies and procedures for the State's trade/service mark program, covering definitions, filing processes (new, renewed, and amended filings), application review/rejection criteria and associated appeals process, mark classification, and fees. The subchapter is amended to clarify the different levels and types of expedited services and delivery cut-offs for expedited work requests. In addition, language has been added to reflect that the Filing Office may accept electronic applications.

Subchapter 5 details the facsimile filing service, with a description of the scope of service, definitions, processing timeframe exceptions, fees, and payment methods. The subchapter is amended to: allow the use of emerging technologies, as approved by the Filing Office, for the submission of facsimile filing requests; clarify the different levels of facsimile filing service that are available; and to outline delivery times for expedited work requests.

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

Social Impact

Commercial recording services encompass the State of New Jersey's corporate, Uniform Commercial Code, trade/service mark, notary public, and other related business filing and certification service programs. Collectively, these service programs continue to provide the foundations for vital business and legal transactions, such as business formation, loan processing, marketing (via the use of business names and marks), signature authentication, and international document exchange. Clearly, commercial recording services have a very beneficial social impact. It follows then that the rules proposed for readoption with amendments will also have a positive social impact, because they contribute to the successful administration of these beneficial services. To a large degree, the success of the State's commercial recording operation hinges on the timeliness of its service transactions and its consistent application of clearly delineated filing and information access rules. The rules proposed for readoption with amendments directly support these two vital elements by ensuring that clear, consistent policies and procedures are in place for these service programs.

The rules proposed for readoption with amendments will also ensure the clear, consistent specification of the State's business name availability criteria and document preclearance procedures. Name availability criteria are vital elements in determining whether a proposed business name is available for use in this State, and therefore play a key role in the business formation process. Document preclearance gives businesses and their representatives assurance of the acceptability of a filing, in advance of its formal submission to the Division of Revenue and Enterprise Services. Such assurance is often vital for the smooth processing of complex and time sensitive transactions such as mergers.

The rules proposed for readoption with amendments will ensure the continuance of required policies and procedures for the State's trade/service mark program, covering all basic program elements. This includes initial registration, renewal/maintenance, cancellation/expiration, and records retrieval. These policies and procedures provide the bases for registering trade/service marks, which businesses use to identify goods and services they market and sell.

Finally, the rules proposed for readoption with amendments continue and expand facsimile filing services, thereby supporting streamlined and efficient processing of key commercial recording transactions.

Economic Impact

In connection with the positive social impacts noted above, commercial recording services continue to have a significant, positive impact on the economy. Commercial recording services enable business entities to legally establish and conduct their operations in this State. They provide information on the status of business entities, business name usage, the procedural validity of commercial transactions, and the existence of secured loans. This public information in turn helps to establish bases for capital transactions, authentication of signatures on real estate and commercial transactions, legal service of process, business/tax registration, and generally, for the efficient flow of commerce in this State. The rules proposed for readoption with amendments will have a positive economic impact because they contribute to the successful administration of these beneficial services.

The economic impact of the rules proposed for readoption with amendments is direct and client-focused. Clients will pay fees for specific filing and information retrieval services. In return, they will receive the economic benefits derived from timely completion of business transactions such as loan processing and the execution of contracts and mergers. Other than the aforementioned fees, the rules will not impose any further direct costs on clients. Clients will continue to bear indirect costs associated with document preparation -- for example, legal advice, typing/printing, etc.

Federal Standards Statement

A Federal standards statement is not required because the rules proposed for readoption with amendments relate strictly to the State of New Jersey's commercial recording services. The rules are therefore independent from any Federal systems or requirements.

Jobs Impact

The rules proposed for readoption with amendments will not result in the creation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not have an impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments are designed to ensure that clear and consistent policies and procedures are in place for key commercial recording services and program elements. Anyone submitting requests pursuant to these rules, including small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., must comply with the policies/procedures they detail. Fees and administrative costs that will be incurred, as discussed in the Economic Impact statement above.

Professional services are not required for compliance with these rules. The Division of Revenue and Enterprise Services considers the requirements set forth in the rules to be the minimum necessary for the maintenance of comprehensive, workable, and accessible services in the areas covered. For that reason, and because the requirements imposed are not administratively burdensome, the Division of Revenue and Enterprise Services has not provided any exceptions or lesser requirements for small businesses.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will not result in a change in the average costs associated with housing. The rules have no impact on any aspect of housing because they deal only with commercial recording services.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments deal only with commercial recording services, and will not result in a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:35.

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

CHAPTER 35

DIVISION OF [COMMERCIAL RECORDING] REVENUE AND ENTERPRISE SERVICES

SUBCHAPTER 1. EXPEDITED SERVICES

17:35-1.1 Services that will be provided on an expedited basis

(a) The Department of the Treasury's Filing Office shall provide expedited over the counter [corporate] services for the following requests:

1. Any information contained in the annual report of a [corporation or a limited partnership] **business on file with the Filing Office**;

2.-4. (No change.)

5. The availability of a corporate name, **limited liability company name**, or a limited partnership name;

6. Filing [corporate documents or limited partnership documents] **of any document the Filing Office is empowered by law or regulation to file**;

7. The name and address of the registered agent of a [corporation or a limited partnership] **business on file with the Filing Office**;

8. The filing date of a [certificate of incorporation for a domestic corporation or the filing date of a certificate of limited partnership or the filing date for a certificate of qualification for a foreign corporation or limited partnership] **business on file with the Filing Office**;

9. The name and address of [the corporation's or a limited partnership's registered agent] **a business on file with the Filing Office**;

10.-15. (No change.)

(b)-(c) (No change.)

17:35-1.2 Definitions

The words and terms used in this chapter[,] shall have the following meanings, unless the context clearly indicates otherwise.

“Expedited service” means accelerated processing of work requests received by the Filing Office on a business day in one of [three] **four** timeframes selected by a submitter: same day **of submission for limited liability company-related work requests only**; 8.5 business hour service; one-business-hour service; or two-business-hour service.

“Filing Office” means the Department of the Treasury, Division of Revenue **and Enterprise Services**[, Bureau of Business Support Services].

“One business-hour service” means as soon as possible, but no later than one business-hour following receipt of the over the counter work request **no later than 3:00 P.M.** by the Filing Office on a business day.

“Over the counter services” means:

1. (No change.)
2. Subject to the approval of the Filing Office, documents [telexed or] transmitted electronically to the Filing Office;
3. (No change.)

“Same day service” means [as soon as possible, but] **completion of a limited liability company-related work request** no later than **the close of business on the day on which the work request is delivered, provided such request is delivered no later than 12:30 P.M.**

“**8.5 business hours service**” means **completion of a work request no later than 8.5 business hours** following receipt of the over the counter request by the Filing Office on a business day.

“Two-business-hour service” means as soon as possible, but no later than two business-hours following receipt of the over the counter work request **no later than 2:00 P.M.** by the Filing Office on a business day.

17:35-1.3 Exceptions

(a) Expedited services shall be rendered as soon as possible, but may extend beyond the expedited timeframes [below,] if the computer system utilized by the Filing Office is down, or if the Filing Office experiences other difficulties beyond its control, making expedited response impossible. In such cases, upon resuming normal operations, the Filing Office will process expedited requests on a first-in first-out basis, in the following priority order: one business-hour; two business-hour; [and] same day; **and 8.5 business hours**. Expedited requests will be given priority over mail-in requests.

(b) Any over the counter service may be rejected by the Filing Office unless the submission has a **covering communication** [sheet] specified by the Filing Office. The Filing Office may design the **covering communication** [sheet] and may from time to time redesign [the cover sheet] **it**.

17:35-1.4 Fees for expedited service

(a) Fees for [over the counter same day business entity] **8.5 business hours** service shall be as follows:

- 1.-8. (No change.)
- 9. For each Apostille/Notary Certification—\$25.00 plus \$15.00.**
- (b) (No change.)
- (c) Expedited [telephone] service shall [be provided for] **include**:
 1. Status reports which include:
 - i. Availability of a corporate, **limited liability company, limited liability partnership**, [name] or [a] limited partnership name;
 - ii. Whether a [corporation’s] **filed business**’ certificate [of incorporation or a limited partnership certificate] has been voided or revoked;
 - iii. The [date of incorporation or the date of formation of a limited partnership or the date of qualification of a foreign corporation or limited partnership] **filing date of a business on file with the Filing Office**;
 - iv. The name and address of the registered agent of a [corporation or limited partnership] **business on file with the Filing Office** which has filed a fictitious name certificate;
 - v. The [corporation’s] number **of a business on file with the Filing Office**;
 - vi. (No change.)
 2. (No change.)

(d) One-business-hour service shall be available for any work request for which there is [a same day] **an 8.5 business hour** option as listed in this chapter and the fee for one-business-hour service shall be \$1,000 per transaction, which shall be in addition to any statutory fee associated with the transaction. **All work requests for one-business-hour service shall be submitted to the Filing Office by 3:00 P.M. on a business day.**

(e) Two-business-hour service shall be available for any work request for which there is [a same day] **an 8.5 business hour** option as listed herein and the fee for one-business-hour service shall be \$500.00 per transaction, which shall be in addition to any statutory fee associated with the transaction. **All work requests for two-business-hour service shall be submitted to the Filing Office by 2:00 P.M. on a business day.**

(f) **Same day service shall be available for any limited liability company-related work request. The fee shall be \$50.00 per transaction, which shall be in addition to any statutory fee associated with the transaction. All work requests for same day service shall be submitted to the Filing Office by 12:30 P.M.**

17:35-1.5 Method of payment of fees for expedited service

(a) All fees for expedited service performed by the Filing Office may be paid via a pre-paid deposit account, **cash (over the counter transactions only)**, or charged against a major credit card held by the service user. A check, **presented in paper or electronic form, made payable to the Treasurer, State of New Jersey, or other electronic method approved by the Filing Office**, is also an acceptable payment method.

1. When a credit card **or electronic payment method acceptable to the Filing Office** is utilized as a method of payment, the user may be charged a separate fee to cover reasonable [bank] **service** fees that are incurred [by the Filing Office] in processing the credit card **or electronic payment**.

2. (No change.)

SUBCHAPTER 2. PRECLEARANCE OF DOCUMENTS

17:35-2.1 Documents which may be submitted for preclearance

Any document which may be filed with the Treasurer, via the Filing Office pursuant to N.J.S.A. 14A:1-1 et seq. may be submitted for preclearance. These documents include, but are not limited to: Certificates of Incorporation; Amendments; Abandonments; Mergers; Restated Certificates; **Terminations**; Dissolutions; Revocation of Dissolutions; Corrections; Foreign Qualifications; Foreign Withdrawals; Foreign Amendments; Change of Agents and/or Office; Reservations; Registrations; or Alternate Name Registrations. There is no requirement, however, that a document be precleared prior to submission for filing.

17:35-2.2 Preclearance submission procedure

(a) The Filing Office will preclear any document which:

1. Is hand delivered with a **covering [sheet] communication** clearly indicating that the document is submitted for preclearance by messenger or overnight mail service to the preclearance basket at the Filing Office; or

2. Is [faxed] **electronically transmitted** to the Filing Office with a **covering [sheet] communication** clearly indicating that the document is submitted for preclearance.

(b) The **covering [sheet] communication** must include a telephone number of the individual who is to receive the Filing Office’s opinion on the document. The Filing Office will telephone its approval or required revisions to the document. To assure the document will be prescreened prior to filing, the document must be received by Filing Office at least 17 business hours prior to the date that the document will be submitted for filing. Business hours are defined as those hours that the Filing Office’s expedited service counter is open. Normal business hours are from 8:30 A.M. to 5:00 P.M., Monday through Friday, except State holidays.

17:35-2.4 Method of payment of fees for preclearance service

(a) All fees for preclearance service performed by the Filing Office may be paid via a pre-paid deposit account, **provided the delivery process allows for the use of such accounts**, or charged against a major credit card held by the service user. A check, **presented in paper or electronic form, made payable to the Treasurer, State of New Jersey, or**

other electronic method approved by the Filing Office, is also an acceptable payment [for hand deliveries] method.

1. When a credit card or electronic payment method acceptable to the Filing Office is utilized as a method of payment, the user may be charged a separate fee to cover reasonable [bank] service fees that are incurred [by the Filing Office] in processing the credit [charge] card or electronic payment.

2. (No change.)

SUBCHAPTER 3. NAME AVAILABILITY

17:35-3.1 Distinguishable defined

(a) For name availability purposes, a business entity name, meaning [A corporation] a corporate, limited liability company, limited liability partnership, or limited partnership name, can be distinguished from other business entity names recorded with the Filing Office if it is sufficiently different from those other business entity names. All changes except for the following should be sufficient to distinguish one [corporate] business entity name from another upon the records of the Filing Office:

1. (No change.)

2. The changing of a word in a [corporate title] business entity name into its plural or singular form;

3. The addition of a different [corporate designer as set forth in N.J.S.A. 14A:2-2(d)] business entity designer;

4. (No change.)

5. The addition of spaces in a [corporate] business entity name; [and or] and/or

6. The misspelling in the word of a [corporate] business entity name.

SUBCHAPTER 4. TRADE/SERVICE MARKS

17:35-4.1 Definitions

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

...

“Filing Office” means the Department of the Treasury, Division of Revenue and Enterprise Services[, Bureau of Business Support Services].

...

17:35-4.2 Mark registration

(a) A person or business may register trade or service marks by:

1. Submitting a type-written or machine-printed application, or an electronic application in a form acceptable to the Filing Office, along with a \$50.00 paper or, where applicable, electronic check made payable to the Treasurer, State of New Jersey, with mailings directed to the Trade/Service Mark Section, Division of Revenue and Enterprise Services, (PO Box 453, Trenton, NJ [08625]08646-0453). The application must include the following information:

i.-x. (No change.)

2. (No change.)

(b) (No change.)

17:35-4.3 Mark life-cycle management

(a) An owner of a registered mark may renew, assign, amend, or cancel the mark. Procedures for these life cycle management actions are as follows:

1. An owner may renew a mark by:

i. Submitting a type-written or machine-printed application, or electronic application in a form acceptable to the Filing Office, along with a \$50.00 paper or, where applicable, electronic check made payable to the Treasurer, State of New Jersey, with mailings directed to the Trade/Service Mark Section, Division of Revenue and Enterprise Services (PO Box 453, Trenton, NJ [08625]08646-0453). The application may be submitted any time within six months prior to the expiration of the registration period. The application shall include the following information:

(1)-(8) (No change.)

ii.-v. (No change.)

2. An owner may assign ownership of a mark to another person or business entity by:

i. Submitting a type-written or machine-printed application, or electronic application in a form acceptable to the Filing Office, along with a \$50.00 paper or, where applicable, electronic check made payable to the Treasurer, State of New Jersey, with mailings directed to the Trade/Service Mark Section, Division of Revenue and Enterprise Services (PO Box 453, Trenton, NJ [08625]08646-0453). As noted, assignments may also be filed as part of the new (original) mark registration process or as part of the renewal process (see N.J.A.C. 17:35-4.2 and 4.3(a)). The application shall include the following information:

(1)-(6) (No change.)

ii. (No change.)

3. An owner may amend a registered mark to reflect updated information pertaining to: the owner’s name (that is, to reflect owner’s new name, not an assignment); owner’s address; and mark classification (add or delete). All three amendment types may be incorporated in a single amendment application. An amendment shall not include alterations to the mark name or drawings/facsimiles associated with the original application. A new registration application shall be submitted if changes to any of these elements occur. The owner may obtain an amendment by:

i. Submitting a type-written or machine-printed application, or electronic application in a form acceptable to the Filing Office, along with a \$50.00 paper or, where applicable, electronic check made payable to the Treasurer, State of New Jersey, with mailings directed to the Trade/Service Mark Section, Division of Revenue and Enterprise Services, (PO Box 453, Trenton, NJ [08625]08646-0453). The application shall include the following information:

(1)-(7) (No change.)

ii. (No change.)

4. An owner may cancel a registered mark by:

i. Submitting a type-written or machine-printed application, or electronic application in a form acceptable to the Filing Office, along with a \$50.00 paper or, where applicable, electronic check made payable to the Treasurer, State of New Jersey, with mailings directed to the Trade/Service Mark Section, Division of Revenue and Enterprise Services (PO Box 453, Trenton, NJ [08625]08646-0453). The application shall include the following information:

(1)-(6) (No change.)

17:35-4.6 Fees

Fees for the various trademark/service mark filing and information retrieval services are as follows:

Service	Fee Amount
...	
One-business-hour service, meaning as soon as possible, but no later than one business-hour following receipt of an over the counter request by the Filing Office no later than 3:00 P.M. on a business day	\$1,000, charged in addition to the basic filing fees
Two-business-hour service, meaning as soon as possible, but no later than two business-hours following receipt of an over the counter request by the Filing Office no later than 2:00 P.M. on a business day	\$500.00, charged in addition to the basic filing fees
Same day service meaning [as soon as possible, but no later than 8.5 business hours following receipt of an over the counter request by the Filing Office on a business day] no later than the close of business on the day on which the work request is delivered to the Filing Office, provided such request is delivered no later than 12:30 P.M. on a business day	[\$15.00] \$50.00, charged in addition to the basic filing fee
8.5 business hours service means completion of a work request no later than 8.5 business hours following receipt of the over the counter request by the Filing Office on a business day	\$15.00, charged in addition to the basic filing fees

SUBCHAPTER 5. FACSIMILE FILING SERVICE

17:35-5.1 Filing service

(a) The Filing Office shall offer a [teletype] **facsimile** filing service [(hereafter termed facsimile filing service)] for any business entity or related document type submitted to the Filing Office, which [can be processed through facsimile transmission] **the Filing Office determines is suitable for facsimile filing. This service may include the transmission of filed documents and related data to persons requesting such content. The Filing Office shall publish which filings and related data are suitable for facsimile filing, along with the approved facsimile filing methods, on its web site at www.nj.gov/treasury/revenue.**

(b) (No change.)

(c) Documents delivered via the facsimile filing service [shall] **may be processed as non-expedited work with no specific turnaround service level, or be processed on one of the following accelerated service levels: [the] same work day received; [or] within 8.5 business hours of receipt[.]; one business-hour of receipt[.]; or two business-hours of receipt[, based on the service level chosen]. The service level shall be indicated on a covering communication approved by the Filing Office by persons who deliver the documents via the facsimile [transmission] filing service.**

17:35-5.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings:

“Delivered” means submitted to the Filing Office via [direct] a facsimile transmission **in accordance with a format and processing method approved by the Filing Office**, or to any other location designated by the Filing Office].

“Filing Office” means the Department of the Treasury, Division of Revenue and Enterprise Services[, Bureau of Business Support Services].

“Processed” means that a facsimile document submitted via [the] a facsimile [filing service] **transmission in accordance with a format and processing method approved by the Filing Office that is reviewed by the Filing Office and accepted or rejected with the appropriate acknowledgment being sent back to the submitter, [that is] including, as applicable, a rejection notice or stamped copy of an approved [facsimile document] filing.**

17:35-5.3 Exceptions

Services pursuant to this subchapter shall be rendered as soon as possible[, but]. **However, turnaround times** may extend beyond [the] requested **accelerated** service levels [timeframe,] if the computer systems, [facsimile devices and/or] **or communications devices/systems** utilized by the Filing Office malfunction, or if the Filing Office experiences other difficulties beyond its control, making a timely response impossible. In such cases, upon resuming normal operations, the Filing Office will [first] process facsimile filing service requests on a first-in first-out basis, in the following priority order: one business-hour; two business-hour; [and] same day; **and 8.5 business hours.** These requests will be given priority over mail-in requests.

17:35-5.4 Fees

The fees for facsimile filing services shall be: \$15.00 **for each 8.5 business hours request; \$50.00** for each same day service request; \$1,000 for each one-business-hour service request; and \$500.00 for each two-business-hour service request. The filing fee shall be in addition to the basic statutory filing fee usually charged for filing a document.

17:35-5.5 Methods of payment for facsimile filing service

(a) All fees assessed pursuant to this subchapter may be paid via a pre-paid deposit account, **provided the delivery process allows for the use of such accounts**, or charged against a major credit card held by the service user [of the facsimile filing service]. **An electronic method approved by the Filing Office is also an acceptable payment method.**

1. When a credit card **or electronic payment method acceptable to the Filing Office** is utilized as a method of payment, the user may be charged a separate fee to cover reasonable [bank] **service fees that are incurred [by the Filing Office] in processing the credit [charge] card or**

electronic payment. [If no bank fees are incurred in processing the charges, no separate fee shall be charged.]

2. (No change.)

TREASURY — TAXATION

(a)

DIVISION OF TAXATION

Sales and Use Tax Act

Proposed Readoption with Amendments: N.J.A.C. 18:24

Proposed Repeals and New Rules: N.J.A.C. 18:24-31.5 and 33.1

Proposed Repeals: N.J.A.C. 18:24-2.2, 4.7, 5.15, 5.18, 12.4, 18, 22.4, 22.5, and 32.7

Proposed Recodification: N.J.A.C. 18:24-2.14 as 8.6

Authorized By: Dennis Shilling, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:32B-24 and 54:50-1.

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

Proposal Number: PRN 2015-153.

Submit written comments by February 5, 2016, to:

Elizabeth J. Lipari
Administrative Practice Officer
Division of Taxation
50 Barrack Street
PO Box 240
Trenton, NJ 08695-0240
Email: Tax.RuleMakingComments@treas.nj.gov

The agency proposal follows:

Summary

In accordance with the sunset provisions of Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the Division has evaluated the rules at N.J.A.C. 18:24, Sales and Use Tax Act, scheduled to expire on October 28, 2015, and has determined that they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. The Division of Taxation (Division) proposes to readopt the rules with technical changes, such as grammar and formatting, as well as substantive changes in order to properly reflect current statutory provisions. As the Division has filed this notice of readoption prior to the expiration date, the rules are extended 180 days to April 25, 2016, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The proposed amendments, new rules, a recodification, and repeals will increase ease of use and consistency. Certain language, phrasing, and formatting inconsistencies have been addressed. The following technical changes have been proposed: examples have been restructured without substantive changes; gender-specific pronouns have been amended to eliminate gender designations or to provide gender-neutral phrasing; stated numbers have been replaced with digits where appropriate; grammatical changes have been made; incorrect punctuation has been corrected; extraneous words and punctuation have been eliminated; references to Resale Certificate (Form ST-3), Certificate of Exempt Capital Improvement (Form ST-8), Farmer's Exemption Certificate (Form ST-7), and Exempt Use Certificate (Form ST-4) have been amended to follow with “or other approved form”; “vendor(s)” has been changed to “seller(s)” to reflect the terminology used in the Sales and Use Tax Act; peculiar words or phrases have been replaced with plain language; the phrase “digital property” was changed to “specified digital product” to correspond with a statutory change; “personal property” or “goods” were changed to “tangible personal property” to correspond with the statute; references to other rules as authority were replaced by the