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TITLE 5. COMMUNITY AFFAIRS
CHAPTER 120. URBAN ENTERPRISE ZONE AUTHORITY

N.J.A.C. 5:120 (2017)

Title 5, Chapter 120 -- Chapter Notes

NOTES:

CHAPTER AUTHORITY:

N.J.S.A. 52:27H-65.

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective: April 27, 2016.

See: 48 N.J.R. 953(a).

CHAPTER EXPIRATION DATE:

Chapter 120, Urban Enterprise Zone Authority, expires on April 27, 2023.

CHAPTER HISTORICAL NOTE:

Chapter 120, Urban Enterprise Zone Authority, was adopted as R.1988 d.431, effective September 6, 1988. See: 20 N.J.R. 1336(a), 20 N.J.R. 2307(a).

Subchapter 2, Business Certification for Zone Business Benefits, was adopted as R.1989 d.376, effective July 17, 1989. See: 21 N.J.R. 693(a), 21 N.J.R. 2043(a).

Pursuant to Executive Order No. 66(1978), Chapter 120, Urban Enterprise Zone Authority, was readopted as R.1993 d.416, effective July 27, 1993. See: 25 N.J.R. 2645(b), 25 N.J.R. 3837(a). Pursuant to Executive Order No. 66(1978), Chapter 120 expired on July 27, 1998.

Chapter 120, Urban Enterprise Zone Authority, was adopted as new rules by R.1998 d.470, effective September 8, 1998. See: 30 N.J.R. 2155(a), 30 N.J.R. 2859(a), 30 N.J.R. 3251(a).

Chapter 120, Urban Enterprise Zone Authority, was readopted as R.2004 d.101, effective February 13, 2004. See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Pursuant to P.L. 2008, c. 27, § 16 (N.J.S.A. 34:1B-225) and by notice of administrative change, Chapter 120 of Title 12A, Urban Enterprise Zone Authority, was recodified as Chapter 120 of Title 5, effective January 29, 2009. See: 41 N.J.R. 1016(b).

Chapter 120, Urban Enterprise Zone Authority, was readopted as R.2009 d.227, effective June 16, 2009. See: 41 N.J.R. 933(a), 41 N.J.R. 2779(a).

Subchapter 3, Urban Enterprise Zone Boundary Amendments, was recodified from N.J.A.C. 5:121-1; Subchapter 4, Discretionary Extension of 50 Percent Sales Tax Exemption to Urban Enterprise Zone Municipalities, was recodified from N.J.A.C. 5:121-2; and Subchapter 5, Energy Sales Tax Exemption Program, was adopted as new rules by R.2009 d.331, effective November 2, 2009. See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 120, Urban Enterprise Zone Authority, was scheduled to expire on June 16, 2016. See: 43 N.J.R. 1203(a).

Chapter 120, Urban Enterprise Zone Authority, was readopted, effective April 27, 2016. See: Source and Effective Date.

TITLE 5. COMMUNITY AFFAIRS
CHAPTER 120. URBAN ENTERPRISE ZONE AUTHORITY
SUBCHAPTER 1. URBAN ENTERPRISE ZONE PROGRAM

N.J.A.C. 5:120-1.1 (2017)

§ 5:120-1.1 Applicability and scope

(a) The rules in this subchapter are promulgated by the Urban Enterprise Zone Authority (UEZA) to implement N.J.S.A. 52:27H-60 (P.L. 1983, c. 303), as amended, the New Jersey Urban Enterprise Zones Act.

(b) The Act provides for the establishment of an UEZA which is to designate certain areas of the State as Urban Enterprise Zones (UEZ). The Act also provides that the UEZA provide continuing review of the implementation of the Act and report annually to the Governor and the Legislature on the effectiveness of UEZs in addressing the conditions cited in the Act, including any recommendations for legislation to improve the effectiveness of operation of the UEZs.

(c) Questions concerning UEZs should be directed to:

Urban Enterprise Zone Program
 New Jersey Department of Community Affairs
 101 South Broad Street, 6th Floor
 PO Box 822
 Trenton, New Jersey 08625-0822

(d) Questions concerning applications to become certified or recertified as a "qualified business" (see definition at N.J.A.C. 5:120-1.3) or other questions regarding a particular UEZ should be directed to the Coordinator of the UEZ in the municipality in which the applicant conducts business. A directory of UEZs' contact information shall be maintained on a UEZA webpage within the Department of Community Affairs website.

HISTORY:

Amended by R.2004 d.101, effective March 15, 2004.

See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

In (a), substituted "c. 303" for "ch. 303" and inserted "as amended,"; in (b), substituted "UEZs" for "UEZ's" twice; rewrote (c); and added (d).Administrative change.

See: 44 N.J.R. 1780(a).

N.J.A.C. 5:120-1.2 (2017)

§ 5:120-1.2 Definitions

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

"Act" means the New Jersey Urban Enterprise Zones Act, P.L. 1983, c. 303, as amended (N.J.S.A. 52:27H-60).

"Administrator" means the Executive Director of the Urban Enterprise Zone Program in, but not of, the New Jersey Department of Community Affairs.

"Authority," "Zone Authority" or "UEZA" means the New Jersey Urban Enterprise Zone Authority.

"Certification" means the application process by which a qualified business operating within a zone becomes eligible for zone business benefits for three years, subject to maintaining tax clearance.

"Certified business" or "certified qualified business" is a qualified business that has applied for certification or recertification and that application has been approved by the Administrator.

"Coordinator" means the person, designated by the mayor of the municipality and supported by a resolution of the municipal council, who shall report directly to municipal business administrator and manage the Urban Enterprise Zone office including all matters relating to the application by qualified businesses to enter the program, marketing and promoting the Urban Enterprise Zone program to businesses operating or about to operate within that zone, and such other program related activities as the Administrator shall direct.

"Enterprise zone," "UEZ" or "zone" means an urban enterprise zone designated by the New Jersey Urban Enterprise Zone Authority pursuant to the Act.

"Executive Director" means the title of the person delegated by the Board of the UEZA to managed the operation of the Urban Enterprise Zone Authority, whether by that title or another. Throughout this chapter, the Executive Director is referred to by the functional title of the "Administrator" for consistency with the statute.

"Full-time employee" of a qualified business means an employee subject to tax withholding who works a consistent 30 hours or more per week. (See the definition of "part-time employee" below.)

"NJEDA" or "EDA" means the New Jersey Economic Development Authority, established pursuant to P.L. 1974, c. 80 and amendments thereto.

"Part-time employee" means an employee working a consistent 15 hours or more per week but fewer than 30 hours per week; therefore, for all purposes, one-part time employee shall be considered as one-half full-time employee in all calculations under the program. (See the definition of "full-time employee" above.)

"Qualified business" means any entity authorized to do business in the State of New Jersey which, at the time of designation as an enterprise zone, is engaged in the active conduct of a trade or business in that zone or an entity which, after that designation but during the designation period, becomes newly engaged in the active conduct of a trade or business in that zone, and for which at least 25 percent of its full-time employees (see the definition of "25 percent factor" below), newly hired during the three years after the business becomes initially certified as a UEZ business, meet one or more of the following criteria:

1. Resident within the zone or within the municipality which the zone is located; or
2. Unemployed for at least six months prior to being hired and residing in New Jersey, or recipients of New Jersey public assistance programs for at least six months prior to being hired; or

3. Determined to be low-income individuals pursuant to the Workforce Investment Act of 1998, Pub. L. 105-220 (29 U.S.C. §§ 2811 et seq.).

Approval as a certified qualified business shall be conditioned upon the qualified business meeting all outstanding tax obligations, and may be withdrawn by the Authority if a business is continually delinquent in meeting its tax obligations. A certified business must annually provide, on a form determined by the Division of Taxation and the Administrator, an authorization to verify tax compliance and which form also certifies that the business is a "qualified business."

A qualified business which is a closely-held entity does not cease to be a qualified business due to a change in ownership provided that at least 51 percent or more of the ownership in the successor business continues to be held by the same persons holding an interest in the original business. The successor firm will not have to apply for initial certification and will be permitted to apply for recertification in accordance with its existing schedule.

"Qualified small business" is defined as follows:

1. For purposes of distinguishing business size by number of employees, means any entity authorized to do business in the State of New Jersey which, at the time of designation of the enterprise zone, had been engaged in the active conduct of a trade or business in that zone for at least one year prior to that designation and which employs fewer than 50 full-time employees.

2. For purposes of determination of eligibility for a small business exemption from sales and use taxes at time of purchase of qualifying items, rather than by rebate, status as a "qualified small business" shall be based on total gross receipts of all related business activity in New Jersey, wherever situated. That limit is set pursuant to P.L. 2008, c. 118, as it may be amended from time to time, and, as of November 2, 2009, is set at \$ 10 million.

"Qualifying municipality" means any municipality in which there was, in the last full calendar year immediately preceding the year in which application for enterprise zone designation is submitted pursuant to section 14 of the Act, an annual average of at least 2,000 unemployed persons, and in which the average annual unemployment rate for that year exceeded the State average annual unemployment rate; except that a municipality which qualifies for State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) shall qualify if its municipal average unemployment rate for that year exceeds the State average annual unemployment rate. The annual average of unemployed persons and the average annual unemployment rates shall be estimated for the relevant calendar year by the Office of Labor Statistics, Division of Planning and Research of the State Department of Labor and Workforce Development.

"Recertification" means the process for applying every three years to continue to be eligible for zone business benefits, but the business must submit to tax clearance annually.

"25 percent factor" refers to the requirement that 25 percent of the new employees of a qualified business must meet certain criteria, as stated under the definition "qualified business" above.

"Zone boundary expansion" means a change in the zone boundaries that represents a net increase in the total area within the zone.

"Zone boundary modification" means a change in the zone boundaries that represents no net increase in the area within the zone boundaries.

"Zone boundary revision" means any change in the boundaries of the zone, whether by Zone boundary expansion or by Zone boundary modification.

"Zone business benefits" means those benefits as defined by N.J.S.A. 52:27H-75 to 52:27H-79.

"Zone development corporation" means a nonprofit corporation or association created by the governing body of a qualifying municipality to formulate and propose a preliminary zone development plan pursuant to section 9 of the Act.

"Zone development plan" means a plan adopted by the governing body of a qualifying municipality for the development of an enterprise zone therein, and for the direction and coordination of activities of the municipality, zone businesses and community organizations within the enterprise zone toward the economic betterment of the residents of the zone and the municipality.

"Zone neighborhood association" means a corporation or association of persons who either are residents of, or have their principal place of employment in, a municipality in which an enterprise zone has been designated pursuant to the Act; which is organized under the provisions of Title 15 of the Revised Statutes; and which has for its principal purpose the encouragement and support of community activities within, or on behalf of, the zone so as to:

1. Stimulate economic activity;
2. Increase or preserve residential amenities;
3. Otherwise encourage community cooperation in achieving the goals of the zone development plan.

HISTORY:

Amended by R.2004 d.101, effective March 15, 2004.

See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Rewrote "Administrator"; in "Zone neighborhood association", substituted "Statutes" for "Statues" following "Revised".

Amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

In the introductory paragraph, substituted "chapter" for "subchapter"; in definition "Act" substituted "c. 303, as amended," for "ch. 303"; in definition "Administrator", inserted ", but not of,"; substituted definition " 'Authority,' 'Zone Authority' or 'UEZA' " for definition " 'Authority' or 'UEZA' "; added definitions "Certification", "Certified business", "Coordinator", "Executive Director", "Full-time employee", "NJEDA", "Part-time employee", "Qualified small business", "Recertification", "25 percent factor", "Zone boundary expansion", "Zone boundary modification", "Zone boundary revision" and "Zone business benefits"; substituted definition " 'Enterprise zone,' 'UEZ' or 'zone' " for definition " 'Enterprise Zone' or 'Zone' "; and rewrote definition "Qualified business".

N.J.A.C. 5:120-1.3 (2017)

§ 5:120-1.3 Administrator of the Urban Enterprise Zone Program

- (a) The UEZA shall administer the Urban Enterprise Zone Program through an Administrator and sufficient staff and

operating procedures to ensure the proper operation of the program.

1. To enable the efficient operation of the Urban Enterprise Zone program, the Administrator shall develop a standard operational manual for use by the zones. It will detail the procedures, file maintenance, personal training and such other matters as the Administrator determines will facilitate that attainment of this objective. The manual shall be submitted to the UEZA Board for consideration and approval, and shall be implemented by the UEZA's field representatives. The standard operational manual shall serve as a guidance document to ensure uniformity, fairness and completeness in the procedures followed throughout the program and will list the documentation necessary for:

i. The zone boundary file, which shall include the approved zone map and zone boundary demarcation and all changes acted on by the UEZA;

ii. Each business's file, which shall contain:

(1) A copy of the certification and recertification applications;

(2) Documentation to substantiate that it is a "qualified business" and the zone's efforts to verify that information;

(3) All correspondence relating to the business;

(4) Copies of deed or lease;

(5) A copy of NJ Business Registration form (so-called "NJ-REG") and UZ-1; and

(6) An activity log for the file;

iii. A copy of each certification and recertification application package processed, with active business files separated from inactive business files in separate file cabinets;

iv. Ethics compliance files to demonstrate full compliance annually with N.J.S.A. 40A:9-22.1 et seq. (cited as the "Local Government Ethics Law"), and the regulations of the Local Finance Board in the Division of Local Government Services in the New Jersey Department of Community Affairs, which information has been summarized in tabular form and submitted by letter to the Administrator;

v. Files for the established financial status reports and complete documentation for all projects funded through zone assistance funds, which shall include the project proposals, all amendments, bid process documents and bids received, contracts, reimbursement requests and reimbursements received, and all correspondence;

vi. Personnel records and documentation of training for the zone coordinator and zone staff;

vii. Such other matters as may be dictated by statute or other rule; and

viii. Unless a longer period is required by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., (OPRA) or other statute, records retention shall be for seven years for accepted certification/recertification applications and all projects, and three years for rejected certification/recertification applications; and a log and file of all OPRA requests shall be maintained as provided by statute.

2. The Administrator shall develop a program for the required annual training of Zone Coordinators and zone staff, to include seminars and workshops throughout the year, to enable them to be in compliance in the operation of a zone. This program shall include a process for structured training and State certification of Zone Coordinators without which certification of the Coordinator the municipality shall not be in compliance and no project proposals, Certification/recertification applications or reimbursements may proceed. This program shall be submitted to the UEZA Board for consideration and approval, and shall be implemented by the Administrator, which shall include the following elements:

i. Eight hours of in-house training annually for all Coordinators by UEZA staff in the conduct of a UEZ office, including the standard operational procedures, documents, files, and related other areas;

ii. All Coordinators and key staff must attend the Coordinators' Workshops conducted periodically during the year by UEZA; and

iii. Coordinators must annually either attend instructional seminars offered by the UEZA consisting of one eight-hour or two four-hour sessions concerning current issues related to the operation of a UEZ; or, with prior approval of the Administrator, participate in one eight-hour or two four-hour training sessions conducted by a New Jersey professional institution of higher education in topics of equivalent relevance to UEZ program. The Administrator shall use the following criteria to determine equivalency:

(1) The course must have been organized and presented under the auspices of a recognized educational or professional institution;

(2) The course shall have included eight hours of class instruction for a full-day course, and four hours of instruction for a half-day course, not counting examinations. (Independent study, video or home study courses shall not be considered);

(3) Registrants in the course must have satisfactorily completed at least one written evaluation;

(4) Satisfactory completion of the course must have been based upon providing correct responses to no less than 70 percent of the questions on the evaluation;

(5) The course was completed within six months of the request for a waiver; and

(6) The content, topics and material of the alternate course shall be essentially the same as that of the required UEZA seminar or a topic relevant to the effective operation of an economic development office.

(7) Individuals requesting a course waiver from the Administrator shall be responsible for the following:

(A) Assuming all costs associated with the waiver;

(B) Obtaining a Waiver Procedures Form from the Administrator; and

(C) Submitting a course description, official transcript or certificate of completion and other required documentation, together with a completed Waiver Procedures Form, to the Administrator for review.

3. To maintain performance standards, the Administrator shall implement the system of sanctions set forth below in this paragraph against a zone which may be implemented by the Administrator. The Administrator shall submit this system of sanctions to the UEZA Board for consideration and approval. The system of sanctions shall include the following:

i. If a municipality changes or deviates from the scope or costs of an approved project without prior approval of the UEZA in accordance with the terms of the project contract, the municipality shall be denied reimbursement and will be solely responsible for the costs.

ii. If a Coordinator violates the standard procedures of the program, the Zone shall be sanctioned as follows:

(1) If the Coordinator deviates from program procedures, the Administrator shall have the authority to send a letter of reprimand to the Coordinator, with copies to the mayor and the city council. The Coordinator will have seven business days to submit a written letter of appeal to the Administrator.

(2) If a Coordinator approves and forwards a business' application for certification and it later proves that the business did not meet the stated requirements for certification (subject to appropriation), the local municipality's zone assistance fund will be responsible to make the business whole for taxes and penalties the business is assessed by the Department of the Treasury, Division of Taxation, for any UEZ tax benefits it improperly utilized.

(3) If an otherwise qualified business has become inactive or loses its certification, it is the responsibility of the Coordinator to notify that business by certified mail, return receipt requested, that they are no longer eligible to receive zone business benefits. If the Coordinator fails to so notify the business, and it is determined by the Department of the Treasury, Division of Taxation, that the ineligible business received a benefit they were not entitled to at the time (subject to appropriation), the local municipality's zone assistance fund will be responsible to repay any assessed taxes and penalties in addition to any remedies that the Division of Taxation may pursue.

HISTORY:

New Rule, R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Former N.J.A.C. 5:120-1.3, Application for zone business benefits, recodified to N.J.A.C. 5:120-1.4.

N.J.A.C. 5:120-1.4 (2017)

§ 5:120-1.4 Application for zone business benefits

(a) Any business, which desires to receive zone business benefits, shall submit to the Coordinator of the zone in which the place of business is located, a certification application package, or recertification application package when the business is seeking to continue its participation, and any other additional information requested by the Administrator. The application package shall include the following forms and supporting documentation as appropriate:

1. Procedures and Instructions for Certification or Recertification;
2. Certification, or Recertification, Application form;
3. Employee data sheets for full-time and part-time employees;

4. "Application for Reduced Sales Tax" (Div of Taxation UZ-1);
5. "Application for Exemption from Sales Tax on Purchases of Goods and Materials; for Exclusive Use or Consumption within an Urban Enterprise Zone" (Div of Taxation UZ-5-SB-A);
6. Proof of Business Registration (Business Registration Certificate or an NJ-REG application);
7. "Exempt Sales Tax Tracking Form" for Recertifications; and
8. A copy of the certificate of occupancy, lease and/or deed to substantiate the business location and enable verification that it is within the zone.

HISTORY:

Amended by R.2004 d.101, effective March 15, 2004.

See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Recodified from N.J.A.C. 5:120-1.3 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Rewrote the section. Former N.J.A.C. 5:120-1.4, Time for application for zone business benefits, recodified to N.J.A.C. 5:120-1.5.

N.J.A.C. 5:120-1.5 (2017)

§ 5:120-1.5 Time for application for zone business benefits

A business may apply for zone business benefits at any time after the business to be located in the zone agrees with the Administrator or the Administrator's designee to provide an increase in permanent full-time employment in the zone.

HISTORY:

Recodified from N.J.A.C. 5:120-1.4 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Substituted "Administrator" for "administrator" and "the Administrator's" for "his or her". Former N.J.A.C. 5:120-1.5, Zone business benefits eligibility, recodified to N.J.A.C. 5:120-1.6.

N.J.A.C. 5:120-1.6 (2017)

§ 5:120-1.6 Zone business benefits eligibility

(a) Qualified businesses within a zone shall be eligible to receive all benefits provided for under the Act as approved by the UEZA for the specific zone.

(b) The UEZA, in determining whether a business shall be approved as a qualified business, shall:

1. Review data compiled by the United States Department of Labor and New Jersey Department of Labor and Workforce Development and private industry councils created under the Federal Job Training Partnership Act, and any other relevant sources, which bears on the availability to the business, in the area in which it is or will be located, of potential employees who meet the criteria set forth in N.J.S.A. 52:27H-62(c)(1), (2), or (3); and

2. At the time the business applies for qualified business designation under N.J.S.A. 52:27H-62(c), review the business' employee turnover experience for one year in the instance of certification and three years in the instance of recertification preceding its application and estimate the number of new positions to be created by the business during the three years after the date of its certification application or recertification application, whichever is appropriate.

HISTORY:

Recodified from N.J.A.C. 5:120-1.5 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

In the introductory paragraph of (b), inserted commas following "UEZA" and the second occurrence of "business"; and rewrote (b)2. Former N.J.A.C. 5:120-1.6, Good faith waiver, recodified to N.J.A.C. 5:120-1.7.

N.J.A.C. 5:120-1.7 (2017)

§ 5:120-1.7 Good faith waiver

(a) If the UEZA determines that an applicant for qualified business status or a previously qualified business is unable in good faith to meet the definition of qualified business (see N.J.A.C. 5:120-1.2) because an insufficient number of persons satisfying the criteria of N.J.S.A. 52:27H-62(c)(1), (2), and (3), and the workforce requirements of the business are available within the business's geographical area, the UEZA, in its discretion, may reduce the requirement below the 25 percent factor for that business conditioned upon the agreement of the business to implement any one or more of the below-listed actions. Good faith shall include: a letter on the business' letterhead describing the position (including: type of position, salary, job description, number of positions available, list attempts and means business used to fill position locally, results of business' efforts), proof of advertisement for the position(s), a request to New Jersey Department of Labor and Workforce Development for assistance, and such other evidence to support an effort to hire so as to satisfy the 25 percent factor.

1. Sponsor and fund development and training programs in high schools, vocational or technical schools, or continuing education facilities which serve the zone municipality and which primarily develop basic or entry level job skills;

2. Provide summer or part-time jobs for zone municipality high school students or graduates;

3. Provide summer internships for zone municipality students attending post-secondary, vocational, or technical educational institutions;

4. Design and implement skills training programs in zone municipalities. These programs shall include, but are not limited to:

i. Secretarial skills;

ii. Computer skills;

iii. Financial administration and analysis skills;

iv. Management skills; and

v. Other vocational skills;

5. Participate in and fund State and federally sponsored job training programs in zone municipalities. These programs shall include, but are not limited to:

i. The New Jersey Department of Labor and Workforce Development's Customized Training Program;

ii. The Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. §§ 1501 et seq.); or

iii. Any other job training program recognized by the UEZA;

6. Sponsor and fund any other programs as may be designated by the UEZA.

(b) In determining the extent that a zone business shall be required to implement, sponsor, or fund any of the activities set forth under (a) above, the UEZA shall take into account the business's size as reflected in the number of employees normally, seasonally and currently employed by the business. To determine whether a business has satisfied the 25 percent factor (as defined in N.J.A.C. 5:120-1.2), the following business and employment size criteria shall be utilized:

1. Very small businesses. Very small businesses with 0 to five full-time employees may not be required to hire any additional employees;

2. Small businesses. Small businesses with six to 10 employees may be required to hire at least one qualified part-time employee;

3. Larger small business. Larger small businesses with 11 to 49 employees may be required to hire one full-time or two part-time qualified employees to meet the 25 percent factor; and

4. Medium and large firms. Businesses with 50 or more employees may be required to hire one full-time employee to meet the 25 percent factor, or implement existing options as otherwise outlined under (a) above.

(c) Any good faith waiver granted by the Authority may be suspended, revoked, abridged or otherwise reduced by the Authority upon a showing of good cause by the Administrator. Good cause as used in this subsection shall include economic circumstances of the zone or State which impacts the good faith waiver.

HISTORY:

Recodified from N.J.A.C. 5:120-1.6 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

In the introductory paragraph of (a), inserted a comma following "discretion", inserted "the" preceding "25 percent", and inserted "factor" and the last sentence, and substituted "below-listed actions." for "following actions:"; in (a)1, (a)2 and (a)3, substituted "municipality" for "city"; in the introductory paragraphs of (a)4 and of (a)5, substituted "municipalities" for "cities"; and rewrote (b) and (c).

TITLE 5. COMMUNITY AFFAIRS
CHAPTER 120. URBAN ENTERPRISE ZONE AUTHORITY
SUBCHAPTER 2. BUSINESS CERTIFICATION FOR ZONE BUSINESS BENEFITS

N.J.A.C. 5:120-2.1 (2017)

§ 5:120-2.1 Applicability and scope

(a) The rules in this subchapter are promulgated by the Urban Enterprise Zone Authority (UEZA) to implement P.L. 1983, c.303, as amended, the New Jersey Urban Enterprise Zones Act (the Act), and to implement standards of business certification and recertification for zone business benefits. This subchapter establishes standards and procedures for the recertification of zone businesses.

(b) This subchapter also governs the alternative procedure when creation of new employment cannot be met, and the appeals process.

(c) Applications and questions shall be directed as set forth in N.J.A.C. 5:120-1.1(c) and (d).

HISTORY:

Amended by R.2004 d.101, effective March 15, 2004.

See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Rewrote the section.

N.J.A.C. 5:120-2.2 (2017)

§ 5:120-2.2 Reapplication for zone business benefits

(a) Any business desiring to continue to receive zone business benefits shall forward to the Zone Coordinator a complete recertification application package, upon which the business shall disclose in an accurate manner the requested information, including actual legal name of the business as registered with the State of New Jersey, the trade name of the business, the New Jersey taxpayer identification number (the unique 12-digit number assigned by the Department of the Treasury Division of Revenue), the street address of its actual location within the boundaries of the zone, complete contact information, the amount of full-time and part-time employment located within the zone for each of the three years prior to recertification or one year prior to certification, the amount of full-time and part-time employment and such employment projected for each of the next three years, actual and projected capital expenditure for the same time periods, and any other information as the Administrator shall specify.

(b) This subsection concerns time for reapplication for zone business benefits.

1. A business must reapply for zone business benefits no later than three years after the prior date of certification, or recertification, of that business to receive zone business benefits. The application is not considered as filed until all required forms and information are accurately and completely provided by the business.

2. The Administrator may extend the reapplication period deadline until a date not later than six months after the anniversary date of its certification when the business has demonstrated good faith efforts to produce the information

required by the Administrator.

(c) This subsection sets forth an alternative procedure for recertification by a qualified small business when creation of new employment cannot be met.

1. A qualified small business desiring to continue to receive zone business benefits may, upon agreement with the governing body of the qualifying municipality in which the enterprise zone is located and subject to the approval of the UEZA, agree to undertake investments in the enterprise zone in lieu of creating new employment. For purposes of this subsection, investments in the enterprise zone shall include, but shall not be limited to:

i. Improvements in the exterior appearance or customer facilities of the property constituting the place of business of the qualified small business within the zone, provided that:

(1) All improvements must be of a permanent nature;

(2) All improvements to the structure which are required to meet existing ordinances are not eligible;

(3) The qualified small business submits at least one vendor's estimate of the project's costs with its "in-lieu" application; and

(4) Prior to the end of the current recertification year and upon completion of the improvement, a paid in full bill must be submitted to the UEZA and to the municipality;

ii. Monetary or in-kind contributions to the qualifying municipality to undertake improvements to increase the safety or attractiveness of the zone to businesses which may wish to locate there or to consumer visitors to the zone, including but not limited to:

(1) Litter clean up and control;

(2) Landscaping;

(3) Creation or improvement of parking areas and facilities;

(4) Creation or improvement of recreational and rest area facilities;

(5) Repair or improvement of public streets, curbing, sidewalks and pedestrian thoroughfares;

(6) Creation or improvement of street lighting; or

(7) Increase in police, fire or sanitation services in the enterprise zone;

iii. Monetary contributions to the qualifying municipality to undertake employment related training programs; or

iv. Monetary contributions to the qualifying municipality to undertake physical improvements or assist in educational or training programs of county schools, colleges and vocational schools.

2. In order for an investment to constitute an alternative means by which a qualified small business may become recertified as a qualified small business, the investment by that business shall:

i. Be no less than \$ 5,000 if the business employs 10 or fewer employees; or

ii. If the business employs more than 10 employees, be not less than the amount produced by multiplying the number of employees employed by the small business by \$ 500.00.

(d) This subsection concerns acceptance as a recertified qualified business.

1. When a business has been granted recertification by the Administrator, the business shall be placed on the qualified business register. The business shall be eligible for all zone business benefits as determined by UEZA.

2. Once a business is placed on the qualified business register, it shall be eligible for zone business benefits until its next triennial date of recertification, subject to (c) above.

(e) This subsection concerns denial of recertification of a qualified business.

1. When a business has been denied recertification by failing to meet the requirements of a "qualified business," and by failing to increase permanent employment in the business, the business may appeal the Administrator's decision.

2. A business which is denied recertification may submit an appeal as provided in (f) below.

(f) The procedure for appealing denial of recertification is as follows:

1. Within 10 business days after the business has received notification from the Zone Coordinator by certified mail, return receipt requested, an appeal of denial of recertification shall be made in writing and shall be forwarded to the Administrator by certified mail, return receipt requested.

2. The written appeal shall be accompanied with evidence to support a basis for appeal of the Administrator's decision.

3. The UEZA shall notify the appealing business of the date, time and place of the review, which shall be no later than the later of 45 days after the date that the UEZA has received the appeal letter from the business or the date of the second next public meeting of the UEZA Board. The appeal shall be timely noticed as a Board agenda item and the business has the right to attend and be represented at the review.

4. The review will be conducted by the Board of the UEZA. The Board shall decide the appeal and issue a written report within 10 working days of the minutes of the meeting becoming final.

5. The appealing business may request a hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

HISTORY:

The following annotations apply to N.J.A.C. 5:120-2.2 prior to its repeal by R.2009 d.331:

Amended by R.2004 d.101, effective March 15, 2004.

See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

Rewrote "Administrator; deleted "Commissioner"; added "Secretary".

The following annotations apply to N.J.A.C. 5:120-2.2 subsequent to its recodification in part from N.J.A.C. 5:120-2.3, 5:120-2.4; 5:120-2.5, 5:120-2.6, 5:120-2.11 and 5:120-2.12 by R.2009 d.331:

Amended by R.1993 d.416, effective August 16, 1993.

See: 25 N.J.R. 2645(b), 25 N.J.R. 3837(a).

Amended by R.2004 d.101, effective March 15, 2004.

See: 35 N.J.R. 4816(a), 36 N.J.R. 1357(c).

In (c), substituted "Commerce and Economic Growth Commission" for "Commerce and Economic Development"; in (d), substituted "Secretary" for "Commissioner".

Recodified in part from N.J.A.C. 5:120-2.3, 5:120-2.4; 5:120-2.5, 5:120-2.6, 5:120-2.11 and 5:120-2.12, and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Inserted designation (a); rewrote (a); recodified the introductory paragraph of N.J.A.C. 5:120-2.4 as (b) and N.J.A.C. 5:120-2.4(a) and (b) as (b)1 and (b)2; rewrote (b); recodified the introductory paragraph of N.J.A.C. 5:120-2.5 as (c) and N.J.A.C. 5:120-2.5(a) and (b) as (c)1 and (c)2; rewrote (c); recodified the introductory paragraph of N.J.A.C. 5:120-2.6 as

(d) and N.J.A.C. 5:120-2.6(a) and (b) as (d)1 and (d)2; rewrote (d); recodified the introductory paragraph of N.J.A.C. 5:120-2.11 as (e) and N.J.A.C. 5:120-2.11(a) and (b) as (e)1 and (e)2; rewrote (e); recodified the introductory paragraph of N.J.A.C. 5:120-2.12 as (f) and N.J.A.C. 5:120-2.12(a) through (e) as (f)1 through (f)5; and rewrote (f). Former N.J.A.C. 5:120-2.2, Definitions, repealed.

N.J.A.C. 5:120-2.3 (2017)

§ 5:120-2.3 (Reserved)

HISTORY:

Recodified to N.J.A.C. 5:120-2.2(a) by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Reapplication for zone business benefits".

N.J.A.C. 5:120-2.4 (2017)

§ 5:120-2.4 (Reserved)

HISTORY:

Recodified to N.J.A.C. 5:120-2.2(b) by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Time for reapplication for zone business benefits".

N.J.A.C. 5:120-2.5 (2017)

§ 5:120-2.5 (Reserved)

HISTORY:

Recodified to N.J.A.C. 5:120-2.2(c) by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Alternative qualified small business recertification".

N.J.A.C. 5:120-2.6 (2017)

§ 5:120-2.6 (Reserved)

HISTORY:

Recodified to N.J.A.C. 5:120-2.2(d) by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Acceptance as a recertified qualified zone business".

N.J.A.C. 5:120-2.7 (2017)

§ 5:120-2.7 (Reserved)

HISTORY:

Repealed by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Standards for conditional zone business recertification".

N.J.A.C. 5:120-2.8 (2017)

§ 5:120-2.8 (Reserved)

HISTORY:

Repealed by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Time for application for conditional zone business recertification".

N.J.A.C. 5:120-2.9 (2017)

§ 5:120-2.9 (Reserved)

HISTORY:

Repealed by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Application procedures for conditional zone business recertification".

N.J.A.C. 5:120-2.10 (2017)

§ 5:120-2.10 (Reserved)

HISTORY:

Repealed by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Conditional recertification as an eligible zone business".

N.J.A.C. 5:120-2.11 (2017)

§ 5:120-2.11 (Reserved)

HISTORY:

Recodified to N.J.A.C. 5:120-2.2(e) by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Denial of recertification or conditional recertification of a qualified zone business".

N.J.A.C. 5:120-2.12 (2017)

§ 5:120-2.12 (Reserved)

HISTORY:

Recodified to N.J.A.C. 5:120-2.2(f) by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Procedure for appealing denial of recertification or conditional recertification".

TITLE 5. COMMUNITY AFFAIRS
CHAPTER 120. URBAN ENTERPRISE ZONE AUTHORITY
SUBCHAPTER 3. URBAN ENTERPRISE ZONE BOUNDARY AMENDMENTS

N.J.A.C. 5:120-3.1 (2017)

§ 5:120-3.1 Applicability and scope

The rules in this subchapter are promulgated by the Urban Enterprise Zone Authority (UEZA) to implement P.L. 1983, c. 303, as amended, the New Jersey Urban Enterprise Zones Act, and to specifically implement the methodology of amending zone boundaries within a municipality.

HISTORY:

Amended by R.2004 d.178, effective May 3, 2004.

See: 35 N.J.R. 5482(a), 36 N.J.R. 2199(a).

Recodified from N.J.A.C. 5:121-1.1 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Deleted designation (a); substituted "c. 303, as amended," for "ch. 303,"; and deleted (b) and (c).

N.J.A.C. 5:120-3.2 (2017)

§ 5:120-3.2 Standards of eligibility for zone boundary revisions

(a) A qualified municipality shall be eligible to apply for a revision of the urban enterprise zone within that municipality when:

1. The area to be included within the boundaries of the revised UEZ satisfies the criteria set forth in N.J.A.C. 5:120-3.6(a); and

2. The expansion and modification of the UEZ boundary:

i. Will not, as based upon the original zone application by the municipality for designation of a UEZ, significantly alter the percentage within the zone of:

(1) Unemployment;

(2) Persons below the poverty level; or

(3) Persons receiving public assistance; and

ii. Is limited to include areas within the UEZ that will attract or permit the creation of new businesses in the UEZ, although sites adjacent to existing areas within the UEZ may be included to permit continuity of the zone.

HISTORY:

Recodified from N.J.A.C. 5:121-1.3 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Rewrote (a)1 and (a)2.

N.J.A.C. 5:120-3.3 (2017)

§ 5:120-3.3 Application for zone boundary revisions

(a) A municipality may apply to the Administrator for a zone boundary modification if the total area in the UEZ after the proposed modification will not increase compared to that currently existing.

(b) A municipality may apply to the Administrator for a zone boundary expansion if the area to be added to the UEZ shall not result in the enlargement of the geographic area of the existing UEZ greater than as provided in N.J.A.C. 5:120-3.6(b).

(c) Each application for a zone boundary revision shall include an analysis, in a format established by the Administrator, of how the proposed zone boundary revision will relieve the following as defined in this subsection:

1. Economic distress, meaning conditions affecting the fiscal and economic viability of a community, including such factors as low per capita income, low per capita taxable values, high unemployment, high underemployment, low average weekly earned wages compared to the State average, low housing values compared to the State average, high percentage of the population receiving public assistance, high poverty levels compared to the State average, and a lack of year-round stable employment;
2. High unemployment, meaning a level of unemployment that is greater than the county average in the previous five years;
3. Low investment of capital, meaning a level of private investment that is lower than the State average or private investment which is concentrated in businesses and/or industries with lower than average wages. Low investment of capital may include a lack of private investment in infrastructure;
4. Blighted conditions, including land that is vacant or is 'in need of rehabilitation', as that term is defined by statute;
5. Obsolete or abandoned industrial or commercial structures, meaning a delineated area in which a portion of the structures are in a deteriorated or substandard condition and there is a continuing pattern of vacancy, abandonment or underutilization of properties in the area, with a persistent arrearage of property tax payments thereon or a majority of the water and sewer infrastructure in the delineated area is in need of repair or substantial maintenance. In addition, rehabilitating these areas may be expected to prevent further deterioration and promote the overall development of the community; and
6. Deteriorating tax base, meaning an overall decline over the past ten years in the non-residential tax base, commonly referred to as "ratables."

(d) For purposes of this subchapter, the following additional definitions shall apply:

1. "Parcel" shall mean non-residential real property identified by lot and block on the tax map of the qualifying

municipality;

2. "Area" shall mean one or more parcels; and

3. "Vacant" or "vacancy" means undeveloped and unused parcels, any non-residential parcels with significant amounts of land not covered by impervious surfaces on site as determined by the UEZA, any land suitable for redevelopment or infill at higher densities and any residential parcels with lot sizes in excess of two acres where environmental factors permit densities.

(e) A proposed zone boundary revision, whether for zone boundary modification or for zone boundary expansion, shall consist of one or more contiguous parcels located within the business district of the qualifying municipality.

(f) Each application for a zone boundary revision shall include a rationale for the proposed zone boundary revision and an explanation why the area to be added, deleted or included was not reflected in prior requests for zone boundary revision and/or the original application for designation as a UEZ.

(g) Each application for a zone boundary revision shall be accompanied by a resolution from the municipal governing body granting approval for submission of the request for the proposed zone boundary revision to the UEZA.

(h) The Administrator shall evaluate each application for zone boundary revision and shall make recommendation to the UEZA for approval or denial of same.

HISTORY:

Recodified from N.J.A.C. 5:121-1.4 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Added new (a), (b), (d), (e) and (h); recodified former (a) as (c), and former (b) and (c) as (f) and (g); and rewrote (c), (f) and (g).

N.J.A.C. 5:120-3.4 (2017)

§ 5:120-3.4 Time for zone boundary revisions

(a) A qualified municipality in which a UEZ is located may apply for a zone boundary revision five years or more after the original designation date.

(b) No subsequent application for a zone boundary revision may be made for at least five years after the date the UEZA approves a prior zone boundary revision.

HISTORY:

Amended by R.1993 d.645, effective December 20, 1993.

See: 25 N.J.R. 4582(a), 25 N.J.R. 5933(b).

Recodified from N.J.A.C. 5:121-1.5 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

In (a), inserted "qualified" and substituted "UEZ" for the first occurrence of "zone".

N.J.A.C. 5:120-3.5 (2017)

§ 5:120-3.5 Procedure for evaluation of a zone boundary revision application

(a) The Administrator shall evaluate each zone boundary revision application considering the following factors:

1. The likelihood that the areas to be included within the revised boundary will attract significant new business formation within the UEZ;
2. The likelihood that the zone boundary revision will alleviate general problems of economic distress within the existing zone as well as the area proposed to be included in the zone boundary revision application;
3. The likelihood that the zone boundary revision will help alleviate problems of high unemployment in the municipality and the UEZ;
4. The likelihood that the zone boundary revision will result in investment of new capital in the UEZ;
5. Whether the zone boundary revision will help alleviate blighted conditions in the UEZ;
6. Whether the zone boundary revision will aid in modernizing or reoccupation of industrial or commercial structures within the UEZ; and
7. The likelihood that the zone boundary revision will strengthen and broaden the municipal tax base.

(b) After the Administrator's evaluation is complete, the Administrator shall forward the zone boundary revision application and the results of the Administrator's evaluation to the UEZA for review, modification, denial, and/or approval.

(c) Notwithstanding the provisions of this subchapter, the Authority may, in its discretion, consider a request for zone boundary revision if it deems the special conditions of the application to be of exceptional merit.

HISTORY:

Recodified from N.J.A.C. 5:121-1.6 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Evaluation of a zone boundary revision application". Added new (a)1; recodified former (a)1 through (a)6 as (a)2 through (a)7; in (a)2 through (a)7, inserted "zone" preceding "boundary" throughout; in (a)2, substituted "as well as" for "and", "area proposed" for "proposed area" and "included in" for "covered under" and inserted "application"; in (a)3, substituted "UEZ" for "zone area"; in (a)4 and (a)5, substituted "UEZ" for "zone and the proposed area to be covered under the boundary revision"; rewrote (b); and in (c), substituted "revision" for "revisions".

N.J.A.C. 5:120-3.6 (2017)

§ 5:120-3.6 Area to be included within zone boundaries

(a) The area to be incorporated into a UEZ as part of a proposed zone boundary revision must have been zoned Commercial, Industrial or Mixed Use for a period of not less than three years preceding the request for zone boundary

revision unless it can be shown to the satisfaction of the UEZA that the re-zoning of the subject parcel(s) within said three-year period was done for a purpose unrelated to the zone boundary revision.

(b) A proposed zone boundary expansion shall not enlarge the geographic area of the existing UEZ by more than 10 percent of the total area in the municipality currently zoned as Commercial, Industrial and/or Mixed Use and which does not lie within the zone area; no UEZ existing on November 2, 2009 shall, however, be required to decrease its total area comprising said UEZ or to remove any area within the UEZ which is not currently zoned Commercial, Industrial and/or Mixed Use.

HISTORY:

New Rule, R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

TITLE 5. COMMUNITY AFFAIRS
CHAPTER 120. URBAN ENTERPRISE ZONE AUTHORITY
SUBCHAPTER 4. DISCRETIONARY EXTENSION OF 50 PERCENT SALES TAX EXEMPTION TO URBAN ENTERPRISE ZONE
MUNICIPALITIES

N.J.A.C. 5:120-4.1 (2017)

§ 5:120-4.1 Applicability and scope

The rules in this subchapter pertain to the authority of the Urban Enterprise Zone Authority (UEZA) to extend the 50 percent sales and use tax exemption to those urban enterprise zone municipalities which do not currently have such a benefit. Only such municipalities which meet the requirements of the Act may make an application.

HISTORY:

Amended by R.2004 d.178, effective May 3, 2004.

See: 35 N.J.R. 5482(a), 36 N.J.R. 2199(a).

Recodified from N.J.A.C. 5:121-2.1 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Rewrote the section.

N.J.A.C. 5:120-4.2 (2017)

§ 5:120-4.2 Zone municipality application for 50 percent sales tax exemption

(a) Each application for the 50 percent sales tax exemption shall be accompanied by a certified resolution of the governing body of the municipality supporting the application.

(b) Each application for the 50 percent sales tax exemption shall be accompanied by a benefit statement prepared by the municipality or its agent. The benefit statement shall include, but is not limited to:

1. The number of permanent fulltime jobs to be created in the municipality and the existing UEZ if the exemption were to be granted;
2. The increase in the valuation of real property in the municipality and the existing UEZ if the exemption were granted;
3. The extent to which the granting of the exemption would contribute to the economic and social revitalization of the municipality and the existing UEZ;
4. Any other information the UEZA deems relevant or necessary for the purpose of evaluation of the municipal application.

(c) Each application for the 50 percent sales tax exemption shall be accompanied by an analysis of the impact on the other UEZs in the State of New Jersey if the exemption were to be granted. The impact analysis shall include, but is not limited to:

1. An analysis of whether the exemption would have an effect on the valuation of UEZ municipalities;
2. An analysis of whether the exemption would have an effect on the social and economic revitalization of other UEZ municipalities;
3. An analysis of whether the exemption would have an effect on the growth of businesses in other UEZ municipalities;
4. An analysis of the increase or decrease of State Tax and other revenues to be created if the exemption were to be granted.

HISTORY:

Recodified from N.J.A.C. 5:121-2.2 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

In the introductory paragraph of (c), inserted "to be".

N.J.A.C. 5:120-4.3 (2017)

§ 5:120-4.3 Time for municipal application for 50 percent sales tax exemption

An existing New Jersey Urban Enterprise Zone municipality may apply to the UEZA at any time for the 50 percent sales tax exemption.

HISTORY:

Recodified from N.J.A.C. 5:121-2.3 by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

N.J.A.C. 5:120-4.4 (2017)

§ 5:120-4.4 Evaluation and approval process for an application for 50 percent sales and use tax exemption to an urban enterprise zone municipality

(a) The Administrator shall evaluate each municipal application for the 50 percent sales and use tax exemption, considering the following factors:

1. The probability that the granting of the exemption will create permanent fulltime new jobs in the applying municipality;
2. The probability that the granting of the exemption will increase the valuation of real property in the applying municipality;
3. The probability that the granting of the exemption will contribute to the economic and social revitalization of the applying municipality;

4. The probability that the granting of the exemption will significantly increase the economic activity of the applying municipality;
5. The probability that the granting of the exemption will increase the capital expenditures to be undertaken by qualified zone businesses in the applying municipality;
6. The social and economic impact that the granting of the exemption will have on other State of New Jersey Urban Enterprise Zone municipalities; and
7. The extent to which the granting of the exemption will further the purposes and intent of the Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq.

(b) After the evaluation is completed, the Administrator shall forward to the UEZA the following items for their review:

1. The evaluation of the application completed by the Administrator;
2. The application and accompanying documents submitted by the municipality; and
3. Any written comments received from interested parties concerning the application of the municipality for the exemption.

(c) The UEZA shall, within 120 days from the completion of the evaluation by the Administrator, review the application of a municipality for the 50 percent sales tax exemption and advise the municipality that:

1. The application has been approved;
2. The application has been denied; or
3. The application remains under consideration pending receipt of additional specified documents.

HISTORY:

Recodified from N.J.A.C. 5:121-2.4 and amended by R.2009 d.331, effective November 2, 2009.

See: 41 N.J.R. 2372(a), 41 N.J.R. 4071(b).

Section was "Evaluation of 50 percent sales tax exemption municipal application". In the introductory paragraph of (a), inserted "and use"; and in (c) 3, substituted "documents" for "information".

TITLE 5. COMMUNITY AFFAIRS
CHAPTER 120. URBAN ENTERPRISE ZONE AUTHORITY
SUBCHAPTER 5. ENERGY SALES TAX EXEMPTION PROGRAM

N.J.A.C. 5:120-5.1 (2017)

§ 5:120-5.1 Applicability and scope

There was established pursuant to P.L. 2004, c. 65, also known as the Business Retention and Relocation Assistance Act ("BRRAG Act"), a program to grant qualified businesses which engage in manufacturing an exemption from the sales and use tax on electricity and natural gas utilities consumed at the zone location. By P.L. 2008, c. 27, this program was transferred to the New Jersey Economic Development Authority.

N.J.A.C. 5:120-5.2 (2017)

§ 5:120-5.2 UEZA eligibility criteria for Energy Sales Tax Exemption Program

(a) Subject to the provisions of relevant rules of NJEDA, the eligibility criteria include, but are not limited to, the following in scope and definition:

1. A qualified business which meets requirements including employment levels, manufacturing component of the business, and other requirements, may apply through the NJEDA for the Energy Sales and Use Tax Exemption for UEZ manufacturers.
2. The business must be currently certified in the UEZ program and must submit to tax clearance and such other evaluation as may be established by NJEDA. Upon being notified by the NJEDA of a pending application, the UEZ program shall ascertain the business' status in the UEZ program, and the UEZA or NJEDA shall submit the business' tax release form to the Division of Taxation for the latter to determine whether the business is in tax compliance.

(b) The UEZA and NJEDA shall share information regarding relevant dates, employment, energy consumption and tax savings, as well as copies of approval or denial documents.

(c) All questions regarding the detailed requirements, application procedures and other information concerning the Energy Sales and Use Tax Exemption Program for UEZ Manufacturers should be addressed to the NJEDA through their website: www.njeda.com.