

the first language of a significant number of persons in the State} of the most common non-English languages spoken by individuals with limited English proficiency in this State, based on United States Census Bureau American Community Survey data, as determined by the Director.

1. {The Director's determination of the 10 or more additional languages, other than English and Spanish, that are the first languages of a significant number of persons in the State shall be based on the U.S. Census Bureau's American Community Survey or a comparable data set.} This determination shall be based on data from American Community Survey respondents who indicated that they speak English at a level of proficiency below "very well{,}." {or on similar data from a data set that is comparable to the U.S. Census Bureau's American Community Survey.}

2. The Board shall post the notice required pursuant to (e) above in English, Spanish, and each of the 10 or more additional languages determined by the Director {to be the first language of a significant number of persons in the State,} on its website at: (website to be added upon adoption).

3. The Board shall notify licensees by email and by a notice posted on its website in the event of any revision to the Director's determination of the 10 or more languages, other than English and Spanish{, that are the first languages of a significant number of persons in the State}.

(k) A licensee shall make documentation of the training and affirmation of the licensee's observers and the information provided by the licensee to the licensee's observers pursuant to (a)1, 2, and 3 above available to the Board, upon request.

TREASURY—GENERAL

(a)

DIVISION OF REVENUE AND ENTERPRISE SERVICES

Business Certification for Lesbian, Gay, Bisexual, Transgender, Queer, Questioning+ (LGBTQ+) Businesses

Proposed Amendments: N.J.A.C. 17:47-1.1, 1.2, 1.3, 1.4, 1.5, 1.8, 1.9, 1.10, and 1.12

Authorized By: Elizabeth Muoio, State Treasurer.

Authority: P.L. 2024, c. 10; and N.J.S.A. 10:5-36.g and o.

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

Proposal Number: PRN 2025-047.

Submit comments by July 4, 2025, electronically to the New Jersey Department of the Treasury at nj.gov/treasury/assets/contact/contact-treascomments.shtml.

The Department encourages electronic submittal of comments. In the alternative, comments may be submitted by July 4, 2025, on paper to:

Peter Lowicki
Deputy Director, Operations
Division of Revenue and Enterprise Services
33 West State Street, 5th Floor
Trenton, NJ 08625-0295

The agency proposal follows:

Summary

P.L. 2024, c. 10 directs the Department of the Treasury (Department) to establish, consistent with Executive Order No. 295 (2022) (EO 295), a unified procedure for the certification of a lesbian, gay, bisexual, transgender, queer, questioning+ (LGBTQ+) business as an LGBTQ+ business. The amended rules will update the existing rules at N.J.A.C. 17:47. The Department promulgated the existing rules pursuant to EO 295. The proposed amendments are consistent with those promulgated pursuant to EO 295 and consistent with P.L. 2024, c. 10. The proposed

amendments set forth the manner in which the Department will provide LGBTQ+-owned businesses the opportunity to be certified as LGBTQ+ business enterprises. Consistent with the law and EO 295, such certification will affirm that LGBTQ+ business owners are welcome and encouraged to conduct business in New Jersey. The certification will also enable businesses to proudly announce that they are recognized by the State as LGBTQ+-owned business enterprises.

The Division of Revenue and Enterprise Services (Division) has set a 60-day comment period for this notice of proposal, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, a rulemaking calendar is not required.

Following is a summary of the proposed amendments.

N.J.A.C. 17:47-1.1 sets forth the application and scope of the chapter and is proposed for amendment to refer to the law, and not EO 295, and to update the contact information for applications and questions to be the Department, not the Division of Revenue and Enterprise Service (Division). The proposed amendments to refer to the law, and not EO 295, is proposed throughout the chapter.

N.J.A.C. 17:47-1.2 sets forth the definitions used in the chapter. The section is proposed for amendment to reflect current operational practices and business requirements for certifying LGBTQ+ businesses. Specifically, the definitions of "EO 295" and "Selective Assistance Vendor Information (SAVI)" are proposed for deletion; the term "electronic database" is proposed to be added (to replace SAVI); "LGBTQ+ business" is proposed for amendment to clarify what constitutes a partnership or joint venture; and "Director" and "Division" are proposed for amendment to remove references to a specific division within the Department.

N.J.A.C. 17:47-1.3 sets forth the standards for eligibility to qualify for certification as an LGBTQ+ business enterprise. New paragraph (c)4 is added to require that a business be registered with the Division to do business in New Jersey.

N.J.A.C. 17:47-1.4 sets forth the documentation that must be submitted in order to demonstrate initial (provisional) eligibility for one year and to maintain eligibility following the provisional year for a five-year period and then subsequently for renewable five-year periods. Paragraph (b)2 is proposed for amendment for clarity, to add examples of the listings of previously attained certifications, and to remove the restriction at subparagraph (b)2xiii that makes it only apply to home-based businesses. Paragraph (b)6 is proposed for amendment to include a cross-reference for how to appeal a revocation. Paragraph (c)2 is proposed for amendment to delete information related to additional sanctions.

N.J.A.C. 17:47-1.5 sets forth the actions that are taken after a business is determined to be an LGBTQ+ business enterprise, including the listing of the business in the State's electronic database of certified businesses; and specifies that the business shall be eligible for any appropriate State programs and initiatives for LGBTQ+ businesses. The section is proposed for amendment to update terms consistent with the amended definitions.

N.J.A.C. 17:47-1.8 provides a process for denial or revocation of a certification and appeal of such denials and revocations pursuant to the certification program. Subsection (b) is proposed for amendment to replace misleading information with incorrect information.

N.J.A.C. 17:47-1.9 sets forth the procedures for challenging the Division's determination that a business is eligible for certification as an LGBTQ+ business enterprise. The section is proposed for amendment to update terms consistent with the amended definitions.

N.J.A.C. 17:47-1.10 requires submission of accurate information and sets penalties for supplying false information or withholding required information. The section is proposed for amendment to update terms consistent with the amended definitions and for clarity.

N.J.A.C. 17:47-1.12 specifies that all information and documents submitted to the Division as part of the certification application shall be deemed government records, except for items that: relate to personal income or other tax returns; are treated by the Division of Taxation as confidential, pursuant to N.J.S.A. 54:50-8; or describe a natural person's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, except as otherwise required by law to be disclosed. The section also specifies that information and documents provided to the Division may be made available, subject to confidentiality limitations, pursuant to the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., where required during a challenge or

appeal proceeding pursuant to this subchapter. The section is proposed for amendment to update terms consistent with the amended definitions.

Social Impact

The proposed amendments will provide for the continued implementation of the certification program pursuant to P.L. 2024, c. 10. The certification program will allow LGBTQ+ businesses to proudly announce that they are recognized by the State as LGBTQ+-owned business enterprises. This recognition demonstrates that LGBTQ+ businesses touch all parts of the State's economy, and that they provide vital goods and services to New Jerseyans and visitors.

The proposed amendments will help businesses interested in certification understand how the process works and, through this, foster increased participation in the certification program over time.

Economic Impact

The proposed amendments will impact the State's economy in a positive way by providing increased awareness of the vital role that LGBTQ+ businesses play in the State's economy. This will help LGBTQ+ businesses form and thrive in New Jersey. In turn, a strong LGBTQ+ business community will help bolster employment and economic growth in this State.

Federal Standards Statement

There are no Federal standards or requirements applicable to the proposed amendments. As a result, an explanation or analysis of the proposed amendments pursuant to Executive Order No. 27 (1994) is not required.

Jobs Impact

The proposed amendments will result in continued services provided by the designated division or office in the Department. These services will enable LGBTQ+ businesses to maintain, grow, and expand their employment.

Agriculture Industry Impact

The proposed amendments may have limited impact on the agriculture industry to the extent there are LGBTQ+ business enterprises in the industry, although the extent to which the industry is affected is unknown.

Regulatory Flexibility Analysis

As the proposed amendments pertain to a voluntary program for the certification of businesses, the proposed amendments do not impose any reporting, recordkeeping, or compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, no further analysis is required.

Housing Affordability Impact Analysis

The proposed amendments will have no impact on the affordability of housing in New Jersey, nor will they involve a change in the average costs associated with housing, as the proposed amendments specify services to be provided by the Department to LGBTQ+ businesses.

Smart Growth Development Impact Analysis

Any impact with respect to the achievement of smart growth and the implementation of the State Development and Redevelopment Plan would be a result of the participation of LGBTQ+ businesses in projects within designated smart growth areas. In and of themselves, the proposed amendments will have no impact on Planning Areas 1 or 2, or in designated centers, pursuant to the State Development and Redevelopment Plan, as the proposed amendments specify services to be provided by the Division to LGBTQ+ businesses.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 1. CERTIFICATION

17:47-1.1 Application and scope

(a) This subchapter is promulgated by the Department of the Treasury to establish the procedures for the certification program set forth and directed [by Executive Order No. 295 (2022) (EO 295)] **pursuant to P.L. 2024, c. 10.** [EO 295] **The law** calls for the establishment of a procedure for the certification of LGBTQ+ businesses.

(b) Applications and questions regarding certification of LGBTQ+ businesses should be addressed to the New Jersey [Division of Revenue and Enterprise Services] **Department of the Treasury**, at the contact address listed on its website at www.nj.gov/njbgs.

(c) [EO 295] **P.L. 2024, c. 10** applies to every LGBTQ+ business that wishes to participate in the certification program.

17:47-1.2 Definitions

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

...

["Control and managerial and operational control" mean authority over the affairs of a business, including, but not limited to, capital investment, property acquisition, employee hiring, contract negotiations, legal matters, officer and director selection, operating responsibility, financial transactions, and the rights of other shareholders or joint partners. Control shall not include absentee ownership. Control shall be deemed not to exist where an owner does not identify as LGBTQ+. Additionally, control shall not be deemed to exist where someone, other than someone who identifies as LGBTQ+, is disproportionately responsible for the daily operation of a business, or for policy and contractual decisions.]

...

"Director" means the head of the [Division of Revenue and Enterprise Services,] **division or office** in the Department of the Treasury **designated by the State Treasurer to administer the certification program.**

"Division" means the [Division of Revenue and Enterprise Services,] **division or office** in the Department of the Treasury, [which] **that** has been allocated the authority by the State Treasurer to certify businesses pursuant to this chapter.

["EO 295" means Executive Order No. 295 (2022), issued by Governor Murphy on May 3, 2022.]

"Electronic database" means the database in which the **Department maintains a public listing of small businesses, veteran-owned businesses, disabled veteran-owned businesses, minority-owned, women-owned businesses, and LGBTQ+ businesses.**

...

"LGBTQ+ business" means a business, which is:

1. (No change.)

2. A partnership or joint venture, [owned and controlled by] **whose management and daily business operations are controlled by one or more** individuals who identify as LGBTQ+ [in which at least 51 percent of the ownership interest is held by individuals who identify as LGBTQ+,] and the management and daily business operations of which are controlled by one or more of the individuals who identify as LGBTQ+ [who own it]; or

3. A corporation or other entity, whose management and daily business operations are controlled by one or more individuals who identify as LGBTQ+ [who own it, and], which is at least 51 percent owned by one or more individuals who identify as LGBTQ+ or, if stock is issued, at least 51 percent of the stock is owned by one or more individuals who identify as LGBTQ+.

["Selective Assistance Vendor Information (SAVI)" means the database in which the Division maintains a public listing of small businesses, veteran's businesses, disabled veteran-owned businesses, minority, and women businesses and following the promulgation of this subchapter, LGBTQ+ businesses.]

"Managerial and operational control" mean authority over the affairs of a business, including, but not limited to, capital investment, property acquisition, employee hiring, contract negotiations, legal matters, officer and director selection, operating responsibility, financial transactions, and the rights of other shareholders or joint partners. Control shall not include absentee ownership. Control shall

be deemed not to exist where an owner does not identify as LGBTQ+. Additionally, control shall not be deemed to exist where someone, other than someone who identifies as LGBTQ+, is disproportionately responsible for the daily operation of a business, or for policy and contractual decisions.

17:47-1.3 Standards of certification for LGBTQ+ businesses

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

(c) In order to be eligible to be certified, an LGBTQ+ business must be independently owned, operated, and controlled and can demonstrate the ability to be considered a “going concern,” as the business has sufficient resources needed to continue operating indefinitely by normal industry standards. A business shall meet the following standards to be certified as an LGBTQ+ business:

1.-3. (No change.)

4. Registration. A business shall be registered with the division to do business in New Jersey.

17:47-1.4 Certification procedures for LGBTQ+ businesses

(a) (No change.)

(b) Following a provisional/initial certification year, pursuant to (a) above, a business shall reapply for certification no later than 20 days prior to the expiration of the business’s current certification, and not earlier than 60 days prior to the expiration of such certification.

1. (No change.)

2. As part of its recertification application to the [Division] **division**, a business shall provide all required information and documents requested in the recertification, which may include, but not be limited to, the following, in addition to the information required at (a)3 above:

i. [Place] **Location of its business;**

ii.-xi. (No change.)

xii. A complete listing of previously attained certifications and a listing of all legal entities that denied certification; **including, but not limited to, certification as a small business, veteran-owned business, disabled veteran-owned business, minority-owned business, or women-owned business;** and

xiii. Copies of office/warehouse, lease/rental agreements, and/or deeds, and mortgages[, when home-based].

3. (No change.)

4. Upon approval [or] of an application, a certificate issued pursuant to this subsection shall be valid for five years, subject to **an** annual [verification that there has been no change in status] **Certification Verification Statement.**

i. (No change.)

5. (No change.)

6. Annually, the business must submit, not more than 20 days prior to the anniversary of the certification, an annual Certification Verification Statement, in which it shall attest that there is no change in the ownership, control, or any other factor of the business affecting eligibility for certification as an LGBTQ+ business.

i. If the business fails to submit the annual Certification Verification Statement by the anniversary date, the certification will lapse and the business will be removed from the [SAVI, which lists certified LGBTQ+ businesses] **electronic database.** [If the business seeks to be certified, it will have to reapply.] **The business may appeal this revocation, pursuant to the procedures at N.J.A.C. 17:47-1.8(d).**

ii. If the business submits the annual Certification Verification Statement by the anniversary date, but either the Certification Verification Statement or other information received by the [Division] **division** indicates that the business is no longer eligible for certification as an LGBTQ+ business, the [Division] **division** shall revoke the certification pursuant to this section and, following revocation, the business shall be removed from the [SAVI] **electronic database.** The business may appeal this revocation, pursuant to the procedures at N.J.A.C. 17:47-1.8(d).

(c) Grounds for denial shall be as follows:

1. (No change.)

2. If the applicant knowingly supplies incorrect, incomplete, or inaccurate information, the applicant shall be disqualified [under] **pursuant to** these procedures and barred from reapplying for certification for a period of 18 months from the date of notice of disqualification. [An applicant who knowingly provides such incorrect, incomplete, or inaccurate information may also be subject to other sanctions, provided for by other State agencies or departments, the Attorney General, or other enforcement agencies.]

17:47-1.5 Acceptance as an LGBTQ+ business

(a) When a business is determined by the [Division] **division** to be an LGBTQ+ business, the business will be added to the State’s [SAVI] **electronic database.** Each business shall be placed on the database denoting its status as an LGBTQ+ business.

(b) When a business is placed on the [SAVI] **electronic database**, that business shall be eligible for any appropriate State programs and initiatives for LGBTQ+ businesses.

(c) When a business is placed on the [SAVI] **electronic database**, it shall be informed by the [Division] **division** of its certification status. The [Division] **division** shall also issue an individual certification number exclusive to the business, as part of the certification procedure.

17:47-1.8 Denial of initial certification and revocation of certification for reasons other than a challenge

(a) (No change.)

(b) The appeal procedures for denials or revocations [pursuant to (a)1, 2, or 3 above] are at (d) below. The appeal procedures related to a determination that an applicant or certificate-holder has knowingly supplied **incorrect or false** [or misleading] information (see (a)4 above) are set forth at N.J.A.C. 17:47-1.10.

(c)-(g) (No change.)

(h) An applicant who receives a decision from the [Division] **division** that the denial or revocation has been reaffirmed may reapply **for certification** one year after the original date of denial or revocation.

17:47-1.9 Procedure for challenges to a business certified as an LGBTQ+ business

(a) A [third-party] **third party** may challenge the qualifications of an applicant, or a certified entity, pursuant to this chapter for eligibility to be certified as an LGBTQ+ business and be included in the [SAVI] **electronic database.**

(b)-(d) (No change.)

17:47-1.10 Obligations to provide information; penalties for failure to provide complete and accurate information; hearing procedures

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

(c) The failure of a business to report any such changed circumstances, or the intentional falsification, shall disqualify the business for inclusion on the [SAVI] **electronic database.**

(d) When the [Division] **division** determines that a business has been certified as an LGBTQ+ business on the basis of false information knowingly supplied, the [Division] **division** shall notify the business that it has been removed from the [SAVI] **electronic database.**

(e) (No change.)

(f) Receipt of a proper appeal will constitute a contested case, eligible for hearing, pursuant to [this section and in accordance with] the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(g) (No change.)

17:47-1.12 Information confidentiality

(a) All information and documents submitted to the [Division] **division** as part of the certification application shall be deemed confidential and not subject to disclosure, unless required or allowed by applicable Federal and State law. Information required to be disclosed for purposes of inclusion in the [SAVI] **electronic database** is not deemed confidential.

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