

49 N.J.R. 3576(a)

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RULE PROPOSALS

Reporter

49 N.J.R. 3576(a)

***NJ - New Jersey Register > 2017 > NOVEMBER > NOVEMBER 20, 2017 > RULE PROPOSALS
> OTHER AGENCIES -- NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY***

Interested Persons Statement

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

Agency

OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > ADMINISTRATIVE RULES > AUTHORITY ASSISTANCE PROGRAMS

Administrative Code Citation

Proposed Readoption: N.J.A.C. 19:30

Proposed Readoption with Amendments: N.J.A.C. 19:31

Text

Authorized By: New Jersey Economic Development Authority, Melissa Orsen, Chief Executive Officer.

Authority: N.J.S.A. 34:1B-1 et seq.

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

Proposal Number: PRN 2017-263.

Submit written comments by January 19, 2018, to:

Jacob Genovay, Senior Legislative and Regulatory Officer
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990

or electronically at jgenovay@njeda.com.

The agency proposal follows:

Summary

The New Jersey Economic Development Authority ("EDA" or "Authority") proposes to readopt N.J.A.C. 19:30 and readopt with amendments 19:31, which, pursuant to N.J.S.A. 52:14B-5.1, were scheduled to expire November 9, 2017. In accordance with N.J.S.A. 52:14B-5.1.c(2), the submission of this notice of proposal to the Office of Administrative Law extended that expiration date 180 days to May 8, 2018.

The Authority has reviewed the subchapters contained in N.J.A.C. 19:30 and 19:31 and determined that they are necessary, reasonable, and proper for the purpose in which they were originally promulgated, that is, to accomplish the general purposes of the New Jersey Economic Development Authority Act, N.J.S.A. 34:1B-1 et seq., and to implement the programs and incentives administered by the EDA.

Accordingly, the Authority proposes to readopt certain subchapters without amendments and to readopt certain other subchapters with amendments to implement statutory revisions and/or to update provisions necessary for the implementation of applicable programs, as summarized below.

N.J.A.C. 19:30 Administrative Rules

Chapter 30 is proposed for readoption without amendment. A summary of each subchapter follows.

N.J.A.C. 19:30-1, General Provisions, sets forth the mission of the Authority and its specific objectives, the organization's governing body, and operating divisions and also details the method by which the public can request information of the Authority and establishes which records maintained by the Authority will not be considered public records pursuant to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

N.J.A.C. 19:30-2, Disqualification/Debarment/Conflict of Interest, sets forth the basis for which an applicant or contractor may be precluded from receiving Authority assistance directly or from the participation of a vendor in an Authority financed project.

N.J.A.C. 19:30-3, Affirmative Action in Authority-Financed Construction Projects, sets forth guidelines for the application, compliance, and monitoring of affirmative action standards by the Authority.

N.J.A.C. 19:30-4, Payment of Prevailing Wages in Authority Projects, sets forth the requirements for the payment of prevailing wages in construction contracts financed by the Authority, as well as certain construction projects receiving Authority financial assistance.

N.J.A.C. 19:30-5, Targeting of Authority Assistance, sets forth the priority consideration for projects in economically distressed localities and the basis upon which municipalities are selected for targeting.

N.J.A.C. 19:30-6, Fees, sets forth fees for various programs administered by the Authority.

N.J.A.C. 19:30-7, Disability Discrimination Complaint Procedure, sets forth the procedures for the assurance of the Authority's compliance with the Americans with Disabilities Act (ADA).

N.J.A.C. 19:30-8, Professional Services Contracts, sets forth the procurement process for professional services contracts.

N.J.A.C. 19:31 Authority Assistance Programs

Chapter 31 is proposed for readoption with amendments to certain subchapters. A summary of the subchapters and proposed amendments follow.

N.J.A.C. 19:31-1, Bond Financing Program, sets forth the eligibility standards and program criteria for the issuance of taxable and tax-exempt bonds, the proceeds of which can be used to provide low interest loans to businesses and certain not-for-profit organizations to finance projects that provide or maintain employment and/or tax ratables. The subchapter is proposed for readoption without amendment.

N.J.A.C. 19:31-2, Loan Guarantee Programs, sets forth the eligibility standards and program criteria for the approval of a guarantee or a portion of the principal amount of a financing for fixed assets or working capital that would increase or maintain employment and/or tax ratables in New Jersey, and which would not be made without the guarantee. The subchapter is proposed for readoption without amendment.

N.J.A.C. 19:31-3, Direct Loan Program, which sets forth the eligibility standards and program criteria for the approval of direct loans to applicants that are unable to obtain funding from conventional sources even with the assistance of an Authority guarantee, is proposed for readoption without amendment.

N.J.A.C. 19:31-4, Economic Redevelopment and Growth Program, sets forth the eligibility standards and program criteria for the Economic Redevelopment and Growth (ERG) Program, which offers an incentive for developers and businesses to address revenue gaps in development projects. The proposed amendments to N.J.A.C. 19:31-4.2: revise the term "qualified residential project" to reflect the extension in P.L. 2015, c. 252 to extend the deadline by which certain developers must submit a temporary certificate of occupancy from July 28, 2018, to July 28, 2019; modify the terms "qualifying economic redevelopment and growth grant incentive area" or "incentive area" to allow existing rural development areas zoned for industrial use under the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.) to be eligible under the ERG Program, pursuant to P.L. 2016, c. 75; and revise the terms "developer," "eligible revenue," and "qualifying economic redevelopment and growth incentive area" or "incentive area" for grammatical purposes.

N.J.A.C. 19:31-5 is reserved.

N.J.A.C. 19:31-6, Main Street Business Assistance Program, which sets forth the eligibility standards and program criteria for the Main Street Business Assistance Program to provide guarantees and loans to small and mid-size businesses, is proposed for readoption without amendment.

N.J.A.C. 19:31-7, Local Development Financing Fund, which sets forth the eligibility standards and program criteria to provide financial assistance to certain commercial and industrial projects in municipalities that qualify for aid pursuant to N.J.S.A. 52:27D-178, is proposed for readoption without amendment.

N.J.A.C. 19:31-8, Hazardous Discharge Site Remediation Fund, which sets forth the eligibility standards and program criteria for the purpose of financing remediation activities at sites where there is a suspicion or actual discharge of hazardous substances or hazardous waste, is proposed for readoption without amendment.

N.J.A.C. 19:31-9, Urban Transit Hub Tax Credit Program, sets forth the eligibility standards and program criteria for the Urban Transit Hub Tax Credit Program to provide capital investment and increased employment in targeted urban rail transit hubs to catalyze economic development in those transit hubs. The subchapter is proposed for readoption without amendment.

N.J.A.C. 19:31-10, Business Employment Incentive Program, sets forth the eligibility standards and program criteria for the approval of grants to businesses that expand employment in New Jersey. The proposed amendment, at N.J.A.C. 19:31-10.10, deletes subsection (e) pertaining to refunds that shall be made payable to the State of New Jersey with notice to the Authority for deposit in the Property Tax Relief Fund, to provide administrative flexibility to the Division of Taxation in the Department of the Treasury and is consistent with the rules for other EDA incentive programs.

N.J.A.C. 19:31-11, Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund, which sets forth provisions for the special revolving loan and grant fund for the purpose of financing the removal of underground storage tanks, is proposed for readoption without amendment.

N.J.A.C. 19:31-12, Technology Business Tax Certificate Transfer Program, which sets forth the eligibility standards and program criteria for the Technology Business Tax Certificate Transfer Program to assist new or expanding emerging technology and biotechnology companies in New Jersey, is proposed for readoption without amendment.

N.J.A.C. 19:31-13, Energy Sales Tax Exemption Program, sets forth the eligibility standards and program criteria for the Energy Sales Tax Exemption Program to provide for an exemption of sales and use tax for retail sales of electricity and natural gas and their transport to a qualified business in a New Jersey urban enterprise zone for consumption in the zone, or a vertically integrated combination of qualified businesses manufacturing a single product within a single redevelopment area within an enterprise zone, that employs at least 250 people, at least 50 percent of whom are directly employed in a manufacturing process. The subchapter is proposed for readoption without amendment.

N.J.A.C. 19:31-14, Business Retention and Relocation Assistance Grant Program, sets forth the eligibility standards and program criteria for the Business Retention and Relocation Assistance Grant (BRRAG) Program to encourage economic development and to preserve jobs that currently exist in New Jersey, but which are in danger of being relocated to premises outside of the State. The subchapter is proposed for readoption without amendment.

N.J.A.C. 19:31-15, Tax Credit Certificate Transfer Program, sets forth the eligibility standards and program criteria for the BRRAG Tax Credit Certificate Transfer Program to allow businesses in this State with unused amounts of BRRAG tax credit to surrender those tax credits to other corporations desiring such credits that in exchange will provide private financial assistance to assist in the funding of costs incurred by the relocating business. The subchapter is proposed for readoption without amendment.

N.J.A.C. 19:31-16, Sales and Use Tax Exemption Program, sets forth the eligibility standards and program criteria for the Sales and Use Tax Exemption Program to exempt qualifying businesses from sales and use tax for certain eligible property located or placed at a business location for a construction and/or renovation project to allow for the purchase of machinery, equipment, furniture and furnishings, fixtures, and building materials other than tools and supplies until the new facility is functional. The subchapter is proposed for readoption without amendment.

N.J.A.C. 19:31-17, Energy Sales Tax Exemption Program for Certain Counties, sets forth the eligibility standards and program criteria for the Energy Sales Tax Exemption Program for certain counties to provide an energy sales tax exemption for retail sales of electricity and natural gas and their transport to a business in counties designated for the 50 percent tax exemption under section 1 of P.L. 1993, c. 373 that employs at least 50 people at that facility, at least 50 percent of whom are directly employed in a manufacturing process, and provided that the energy and

utility services are consumed exclusively at that facility. The subchapter is proposed for readoption without amendment.

N.J.A.C. 19:31-18, Grow New Jersey Assistance Program, sets forth the eligibility standards and program criteria for the Grow New Jersey Assistance (Grow NJ) Program to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but that are in danger of being relocated outside of the State. The proposed amendments, at N.J.A.C. 19:31-18.2, redefine certain terms used in this subchapter, pursuant to P.L. 2016, c. 75, as follows: "qualified incentive area" is revised to allow existing rural development areas zoned for industrial use under the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.) to be eligible under the Grow NJ Program; and the terms "capital investment," "disaster recovery project," "full-time employee," "mega project," and "qualified incentive area," are revised for grammatical purposes. In addition, proposed amendments to N.J.A.C. 19:31-18.2 amend the term "withholdings" to delete an existing provision pertaining to the calculation of withholdings for certain out-of-State employees, so that the definition of withholding reflects actual withholdings pursuant to the State of New Jersey and Commonwealth of Pennsylvania Reciprocal Personal Income Tax Agreement. Pursuant to P.L. 2017, c. 221, the Grow NJ Program provides increased tax credit amounts for certain businesses that have collaborative research relationships with colleges or universities. Accordingly, several amendments are proposed as outlined below.

N.J.A.C. 19:31-18.2 establishes new definitions for "college or university," "county college," "doctoral university," "Garden State Create Zone," "independent institution of higher education," "public research university," and "State college."

N.J.A.C. 19:31-18.6 clarifies that the existing fees of \$ 5,000 for any administrative changes, additions, or modifications to the tax credit and \$ 7,500 for any major, changes, additions, or modifications to the tax credit, such as those requiring extensive staff time and Board approval, shall apply for projects with total tax credits of \$ 5,000,000 or less.

N.J.A.C. 19:31-18.8(a) is proposed for amendment to insert "the" pertaining to the total amount of tax credit for an eligible business for each new or retained full-time job.

Pursuant to P.L. 2017, c. 221, N.J.A.C. 19:31-18.8(b)1 is proposed for amendment to establish the base amount of the tax credit for each new or retained full-time job for a qualified business facility located within a Garden State Create Zone and used by an eligible business in a targeted industry to conduct a collaborative research relationship with a doctoral university within the zone, shall be \$ 5,000 per year.

N.J.A.C. 19:31-18.8(c)10 is proposed for amendment to replace the term "is in excess of" with the term "exceeds" pertaining to certain minimum capital investment required for eligibility for a mega project or project located within a Garden State Growth Zone.

Proposed new N.J.A.C. 19:31-18.8(c)18: 1) authorizes an increase in the tax credit for each new or retained full-time job for an eligible business in a targeted industry at a qualified business facility on the campus of a college or university other than a doctoral university, or at a qualified business facility within a three-mile radius of the outermost boundary of the campus of a college or university other than a doctoral university, which facility is used by the business to conduct a collaborative research relationship with the college or university, which shall be an increase of \$ 1,000 per year; and 2) provides that the boundary of the campus of a college or university shall be based upon a map appearing in the college's or university's official catalog or other official publication on the effective date of P.L. 2017, c. 221.

N.J.A.C. 19:31-18.8(d)2 is proposed for amendment to establish the gross amount of the tax credit for an eligible business for each new or retained full-time job at a qualified business facility located within a Garden State Create Zone, shall not exceed \$ 12,000 per year.

N.J.A.C. 19:31-18.8(f)3 provides that the amount of tax credits available to be applied by the business annually shall not exceed \$ 10,000,000 in a Garden State Create Zone.

N.J.A.C. 19:31-19, Angel Investor Tax Credit Program, sets forth the eligibility standards and program criteria for the Angel Investor Tax Credit Program, which authorizes credits against corporation businesses and gross income taxes for qualified investments in New Jersey emerging technology businesses to spur job creation and growth in New Jersey's current and next generation of high-skill, high-wage emerging technology industries. The proposed amendments to the Angel Investor Tax Credit Program authorize tax credits for qualified investments in certain New Jersey emerging technology business holding companies pursuant to P.L. 2017, c. 40, as set forth in the following paragraphs.

N.J.A.C. 19:31-19.1 is proposed for amendment to reference New Jersey emerging technology business holding companies.

Definitions in N.J.A.C. 19:31-19.2 are proposed for amendment as follows: "eligible technology" is revised to include the term "carbon footprint reduction technology," which is included in the proposal as a new definition; "mobile communications technology" is revised to delete the term "mp3," which is replaced with "digital audio" players; "pilot scale manufacturing" is revised to include grammatical changes; and "qualified investment" is revised to: 1) include the term "New Jersey emerging technology business holding company" pertaining to the non-refundable transfer of cash by a non-related investor; and 2) expand the existing reference to "a purchase, production, or research agreement" as being "between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology business holding company or both." In addition, the proposed amendments establish new definitions for "carbon footprint reduction technology," "New Jersey emerging technology business holding company," and "verified transfer of funds." Additional grammatical changes are proposed to the definitions of "electronic device technology" and "mobile communications technology."

N.J.A.C. 19:31-19.3(a) is proposed for amendment to clarify that, to be considered for tax credits, an investor shall make a qualified investment in a New Jersey emerging technology business or a New Jersey emerging technology business holding company.

N.J.A.C. 19:31-19.3(b) is proposed for amendment to: 1) provide that the Angel Investor Tax Credit Program applies to privilege periods and taxable years beginning on or after January 1, 2012, except that the Program applies to qualified investments in New Jersey emerging technology businesses, and in New Jersey emerging technology business holding companies that make verified transfers of funds to New Jersey emerging technology businesses, that conduct technology commercialization in this State in the field of carbon footprint reduction technology for privilege periods and taxable years beginning on or after May 1, 2017; 2) set a deadline of December 31, 2017, for applicants who made qualified investments in New Jersey emerging technology business holding companies in tax years and taxable years before May 1, 2017; and 3) insert "in a New Jersey emerging technology business," pertaining to all other qualified investments and the date upon which an investor shall submit a completed application, and clarify that for all other qualified investments in New Jersey emerging technology business holding companies, an investor must submit a completed application within six months of the date of the verified transfer of funds.

Proposed new N.J.A.C. 19:31-19.3(e) provides that for qualified investments in a New Jersey emerging company, the verified transfer of funds shall be evidenced by certain documentation.

N.J.A.C. 19:31-19.4(b)2ii is proposed for amendment to provide that: 1) the information required therein is required as of the time of the qualified investment and the time of application rather than the earliest of six months after the qualified investment or the time of application; and 2) applications for qualified investments in New Jersey emerging technology business holding companies made before May 1, 2017, shall provide the information in existing N.J.A.C. 19:30-19.4(b)2ii(1) and (2) as of the time of the qualified investment and the earliest of six months after the verified transfer of funds or at the time of application.

Proposed new N.J.A.C. 19:31-19.4(b)3 adds application submission requirements pertaining to New Jersey emerging technology business holding company information, which shall include certain information applicable: 1) at the time of the qualified investment, as provided in proposed new N.J.A.C. 19:31-19.4(b)3i(1) and (2); 2) at the time of the verified transfer of funds, as provided in proposed new N.J.A.C. 19:31-19.4(b)3ii; and 3) at the time of application, as provided in proposed new N.J.A.C. 19:31-19.4(b)3iii(1) and (2).

N.J.A.C. 19:31-19.6(a) is proposed for amendment to clarify that a taxpayer shall be allowed a credit against the tax imposed under the Corporation Business Tax or New Jersey Gross Income Tax in an amount equal to 10 percent of the qualified investment made by the investor in a New Jersey emerging technology business or in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business.

Proposed new N.J.A.C. 19:31-19.6(c) provides that the credit for a New Jersey S corporation may be applied by the share-holders of the S corporation against the tax liability otherwise due under the Gross Income Tax provided that the amount of credit that may be used shall be determined by allocating to each share-holder of the S corporation that proportion of the tax credit of the S corporation that is equal to the shareholder's proportionate share of the S corporation, whether or not distributed, of the total distributive income or gain of the S corporation for its tax period ending with or within the shareholder's tax period, and the credit may be applied by the shareholders against the tax liability otherwise due.

Recodified N.J.A.C. 19:31-19.6(d) and (f) are proposed for amendment to update internal cross-references due to the addition of proposed new subsection (c).

N.J.A.C. 19:31-19.7(d), which pertains to appeal of Authority's action, is proposed for amendment to reference "New Jersey emerging technology business holding company."

As the Authority has provided a 60-day comment period in this notice proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The mission of the EDA is to strengthen New Jersey's economy by retaining and growing businesses through financial assistance, renewing communities, and promoting the State's strategic advantages to attract domestic and international businesses. Under the New Jersey Economic Development Authority Act, N.J.S.A. 34:1B-1 et seq., the Authority creates public/private partnerships to bridge financing gaps and to increase access to capital by the State's business community with an emphasis on small and mid-size businesses and not-for-profit organizations. The Authority supports entrepreneurial development through training and mentoring programs and undertakes real estate development projects important to the State's economic growth that will create new jobs and business opportunities and support community development and revitalization. The EDA anticipates that the proposed readoption of N.J.A.C. 19:30 and 19:31 and the proposed amendments will have a positive social impact by enabling it to continue to provide financial assistance in those instances where the general credit market will not, and further, to stimulate new employment opportunities through the financing of job creating enterprises, as well as continue in its current role as a real estate developer and redeveloper.

Economic Impact

The programs implemented by the Authority and resultant financial assistance have a positive impact on the State's economy. From its inception in 1974, the EDA has provided over \$ 26.5 billion in financing assistance, leveraging more than \$ 57 billion in new business investment and supporting the creation of 352,987 estimated new, full-time jobs and 362,058 estimated construction jobs. The proposed readoption of N.J.A.C. 19:30 and 19:31 and the proposed amendments are intended to further the Authority's efforts to meet its statutory obligation to enhance economic development and will have a positive economic impact throughout the State.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for re-adoption with amendments are not subject to any Federal requirements or standards.

Jobs Impact

The Authority anticipates that its programs, through the proposed re-adoption of N.J.A.C. 19:30 and 19:31, will continue to have a positive impact and result in job creation and retention throughout the State. In 2016, financing provided by the EDA served as a catalyst for over \$ 1.9 billion in new public-private investments in New Jersey that are expected to result in the creation of an estimated 8,252 additional permanent jobs and 7,511 construction jobs. This support also helped ensure the retention of approximately 14,889 existing jobs in the State. In addition, the EDA anticipates that the proposed amendments will spur an indeterminate amount of job creation through expanded potential capital investments in newly-eligible projects under the ERG and Grow NJ Programs, as well as investments in emerging technology business holding companies that make transfers of funds to New Jersey emerging technology businesses, including those that conduct technology commercialization in the field of carbon footprint reduction technology.

Agriculture Industry Impact

The rules proposed for re-adoption with amendments will have no impact on the agriculture industry of the State of New Jersey.

Regulatory Flexibility Analysis

The rules proposed for re-adoption with amendments will not directly impact small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Generally, businesses eligible for Authority financial assistance are required to comply with the EDA's standard, online application process and regular compliance guidelines; however, any costs due to reporting, recordkeeping, or other compliance requirements on qualifying small businesses are fully offset by the amount of financial assistance received. The fees and compliance requirements imposed for financial assistance are the minimum necessary to operate efficient and effective loan, guarantee, and bond programs. Whether an applicant will require outside professional services, such as an accountant, in providing the information required will depend upon the applicant's internal records and management resources. The re-adoption of the rules and proposed amendments will not impose any additional reporting, recordkeeping, or compliance requirements. However, existing reporting, recordkeeping, and compliance requirements are retained that include the monthly remittance of principal and interest payments, annual submission of financial reports and certifications, and maintenance of collateral. The EDA has determined that such requirements shall continue as they are necessary to ensure that the financial condition of the borrower remains sound and that the physical aspects of the project remain sound in order to preserve the Authority's collateral.

The ERG Program provides incentive grants to developers of major development and redevelopment projects, which are invariably large- and medium-sized businesses; therefore, a regulatory flexibility analysis is not required. The Grow NJ Program provides tax credits to eligible businesses that create a minimum of 10 to 35 new and 25 to 50 retained full-time jobs. The proposed amendments, as discussed in the Summary above, may indirectly benefit small businesses, but do not impose any additional compliance requirements, as outlined in N.J.S.A. 52:14B-16 et seq. Specifically, eligible businesses will be required to comply with the EDA's standard, online application process, and regular incentive compliance guidelines; however, any costs due to reporting, recordkeeping, or other compliance requirements on qualifying businesses will be fully offset by the amount of financial assistance received and the only professional services required for such purposes are fully offset by the amount of financial assistance received and the only professional services required for such purposes are from a certified public accountant.

The proposed amendments revising the Angel Investor Tax Credit Program will impose reporting, recordkeeping, or other compliance requirements on small business, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., should the business apply for the tax credit as a New Jersey emerging technology business holding company. Specifically, an investor would be required to comply with the EDA's standard, online application process and pay a graduated application fee designed to ease the burden on applicants that may be small businesses.

Finally, the New Jersey emerging technology business holding company will be required to provide general information relating to its organization and employees to support the investor application, however, professional services will not be necessary for such purposes.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will assist with the creation of affordable housing units, including multi-family rental housing and for sale housing in the State, because the ERG Program dedicates a certain amount of incentives to qualified residential projects. With certain exceptions, these qualified residential projects must set aside at least 20 percent of the residential units for occupancy by low or moderate income households. The remaining rules proposed for readoption with amendments implement the Authority's administrative rules and non-residential financial assistance programs.

Smart Growth Development Impact Analysis

The ERG Program rules proposed for readoption with amendments will assist with the creation of additional housing units, including residential units for occupancy by low or moderate income households and may result in an indeterminate decrease in the average cost of housing in Planning Areas 1 or 2, or within designated centers, of the State Development and Redevelopment Plan. The remaining rules proposed for readoption with amendments implement the Authority's administrative rules and non-residential financial assistance programs.

Regulations

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:30 and 19:31.

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

CHAPTER 31

AUTHORITY ASSISTANCE PROGRAMS

SUBCHAPTER 4. ECONOMIC REDEVELOPMENT AND GROWTH PROGRAM

19:31-4.2 Definitions

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

...

"Developer" means any person who enters or proposes to enter into a redevelopment incentive grant agreement or an approval letter pursuant to the provisions of the Economic Redevelopment and Growth (ERG) Program, or its successors or [assigns] **assignees**, including, but not limited to, a lender that has been approved by the Authority and the State Treasurer and that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project, a municipal redeveloper, or Rutgers, the State University of New Jersey.

...

"Eligible revenue" means any of the incremental revenues set forth in section 6 of P.L. 2009, c. 90 (N.J.S.A. 52:27D-489f), except in the case of a Garden State Growth Zone, in which [such] **the** property tax increment and any other incremental revenues are calculated as those incremental revenues that would have existed notwithstanding the provisions of the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161.

...

"Qualified residential project" means a redevelopment project for which a developer must submit a temporary certificate of occupancy by July 28, [2018] **2019**, that is predominantly residential and includes multi-family residential units for purchase or lease, or dormitory units for purchase or lease, having a total project cost of at least \$ 17,500,000, if the project is located in any municipality with a population greater than 200,000 according to the latest Federal decennial census, or having a total project cost of at least \$ 10,000,000 if the project is located in any municipality with a population less than 200,000 according to the latest Federal decennial census, or is a disaster recovery project, or having a total project cost of \$ 5,000,000 if the project is in a Garden State Growth Zone. A qualified residential project shall not include transitional or homeless units.

"Qualifying economic redevelopment and growth grant incentive area" or "incentive area" means an aviation district, a port district, a distressed municipality, or an area:

1. (No change.)

2. Located within:

i. A smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection [(i)of] **(i) of** section 6 of P.L. 1968, c. 404 (N.J.S.A. 13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L. 1968, c. 404 (N.J.S.A. 13:17-21);

ii. (No change.)

iii. A regional growth area, **a rural development area zoned for industrial use as of December 5, 2016, the effective date of P.L. 2016, c. 75**, a town, a village, or a military and Federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.);

iv.-vi. (No change.)

vii. Only the following portions of the areas designated pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive). This subparagraph shall only apply if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) is located within:

(1)-(3) (No change.)

(4) Any area on which a structure exists or previously existed, including any desired expansion of the footprint of the existing or previously existing structure, provided [such] **the** expansion otherwise complies with all applicable Federal, State, county, and local permits and approvals;

(5)-(6) (No change.)

"Qualifying economic redevelopment and growth grant incentive area" or "incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in the Highlands Water Protection and Planning Act, P.L. 2004, c. 120 (N.J.S.A. 13:20-1 et seq.).

...

SUBCHAPTER 10. BUSINESS EMPLOYMENT INCENTIVE PROGRAM

19:31-10.10 Rescission and withholding of grant payments

(a)-(d) (No change.)

[(e) Refunds shall be made payable to the State of New Jersey with notice to the Authority for deposit in the Property Tax Relief Fund and mailed to the:

Business Employment Incentive Program
Division of Taxation
PO Box 248
Trenton, NJ 08625]

SUBCHAPTER 11. PETROLEUM UNDERGROUND STORAGE TANK REMEDIATION, UPGRADE, AND CLOSURE FUND

SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

19:31-18.2 Definitions

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

...

"Capital investment" in a qualified business facility means expenses by a business or any affiliate of the business incurred after application for: site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; obtaining and installing furnishings and machinery, apparatus, or equipment, including, but not limited to, material goods subject to bonus depreciation under sections 168 and 179 of the Federal Internal Revenue Code (26 U.S.C. §§ 168 and 179), for the operation of a business on real property in a building, structure, facility, or improvement to real property, including associated soft costs; and receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L. 2004, c. 120 (N.J.S.A. 13:20-13); or any of the preceding. Capital investment includes obtaining and installing furnishings and machinery, apparatus, or equipment for the operation of a business in a building, structure, facility, or improvement to real property, site-related utility and transportation infrastructure improvements, plantings, or other environmental components required to attain the level of silver rating or above in the LEED building rating system, but only to the extent that such capital investments have not received any grant financial assistance from any other State funding source including N.J.S.A. 52:27H-80 et seq. (The United States Green Building Council has developed the Leadership in Energy & Environmental Design (LEED) Green Building Rating System for measuring the energy efficiency and environmental sustainability of buildings. The LEED Rating System is a third-party certification program and the nationally accepted benchmark for the design, construction, and operation of high performance buildings.) Vehicles and heavy equipment not permanently located in the building, structure, facility, or improvement shall not constitute a capital investment. Also included is remediation of the qualified business facility, but only to the extent that such remediation has not received financial assistance from any other Federal, State, or local funding source. In a Garden State Growth Zone, the following qualify as a capital investment: any [and all] development, redevelopment, and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the Authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair. A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord if pertaining primarily to the premises of the qualified business facility, and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described in this definition may include any capital investment made or acquired within 24 months prior to the date of application, so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at

least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of [such] **the** premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

"College or university" means a county college, an independent institution of higher education, a public research university, or a State college.

...

"County college" means an educational institution established by one or more counties, pursuant to Chapter 64A of Title 18A of the New Jersey Statutes.

...

"Disaster recovery project" means a project located on property that has been wholly or substantially damaged or destroyed as a result of a Federally declared disaster which, after utilizing all disaster funds available from Federal, State, county, and local funding sources, demonstrates to the satisfaction of the Authority that access to additional funding authorized pursuant to the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161, is necessary to complete [such] **the** redevelopment project, and which is located within the qualified incentive area.

...

"Doctoral university" means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology on August 7, 2017, the effective date of P.L. 2017, c. 221.

...

"Full-time employee" means a person: who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, or who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L. 2001, c. 260 (N.J.S.A. 34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or who is a resident of another state but whose income is not subject to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and who, except for purposes of the Statewide workforce, is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or Federal law. With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal: the requirement that employee health benefits are to be provided shall be deemed to be satisfied if [such] **the** benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement; full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent; 35 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons. For any project located in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, 30 hours of employment per week at

a qualified business facility shall constitute one "full-time employee," regardless of whether [or not] the hours of work were performed by one or more persons, and the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the employees of the business are covered by a collective bargaining agreement. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business. Full-time employee shall also not include any person who at the time of project application works in New Jersey for consideration for at least 35 hours per week, or who renders any other standard of service generally accepted by custom or practice as full-time employment but who prior to project application was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or Federal law.

"Garden State Create Zone" means the campus of a doctoral university and the area within a three-mile radius of the outermost boundary of the campus of a doctoral university, according to a map appearing in the doctoral university's official catalog or other official publication on August 7, 2017, the effective date of P.L. 2017, c. 221.

...

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education that is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis, or other professional persons in the field of religion.

...

"Mega project" means:

1. A qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:
 - i. Having a capital investment in excess of \$ 20,000,000, and at which more than 250 full-time employees of [such] **the** business are created or retained; or
 - ii. At which more than 1,000 full-time employees of [such] **the** business are created or retained;
2. A qualified business facility located in an aviation district housing a business in the aviation industry, in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer, either:
 - i. Having a capital investment in excess of \$ 20,000,000, and at which more than 250 full-time employees of [such] **the** business are created or retained; or
 - ii. At which more than 1,000 full-time employees of [such] **the** business are created or retained;
3. A qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of \$ 50,000,000, and at which more than 250 full-time employees of [a] **the** business are created or retained;
4. A project located in an area designated in need of redevelopment, pursuant to P.L. 1992, c. 79 (N.J.S.A. 40A:12A-1 et seq.), prior to the enactment of P.L. 2014, c. 63, within Atlantic, Burlington, Camden, Cape May,

Cumberland, Gloucester, Ocean, or Salem counties, having capital investment in excess of \$ 20,000,000, and at which more than 150 full-time employees of [a] **the** business are created or retained; or

5. For applications submitted after July 1, 2016, a qualified business facility primarily used by a business principally engaged in research, development, or manufacture of a drug or device, as defined in N.J.S.A. 24:1-1, or primarily used by a business licensed to conduct a clinical laboratory and business facility pursuant to the "New Jersey Clinical Laboratory Improvement Act," P.L. 1975, c. 166 (N.J.S.A. 45:9-42.26 et seq.), either:

i. Having a capital investment in excess of \$ 20,000,000, and at which more than 250 full-time employees of [such] **the** business are created or retained; or

ii. At which more than 1,000 full-time employees of [such] **the** business are created or retained.

...

"Public research university" means a public research university as defined in section 3 of P.L. 1994, c. 48 (N.J.S.A. 18A:3B-3).

...

"Qualified incentive area" means an aviation district, a port district, a distressed municipality, urban transit hub municipality, or an area:

1. (No change.)

2. Located within:

i.-ii. (No change.)

iii. A regional growth area, **a rural development area zoned for industrial use as of December 15, 2016, the effective date of P.L. 2016, c. 75**, a town, a village, or a military and Federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.);

iv.-vi. (No change.)

vii. Areas designated pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) only if such areas are located within:

(1)-(3) (No change.)

(4) Any area on which a structure exists or previously existed, including any desired expansion of the footprint of the existing or previously existing structure, provided [such] **the** expansion otherwise complies with all applicable Federal, State, county, and local permits and approvals;

(5)-(6) (No change.)

"Qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in section 3 of P.L. 2004, c. 120 (N.J.S.A. 13:20-3).

...

"State college" means a State college or university established pursuant to Chapter 64 of Title 18A of the New Jersey Statutes.

...

"Withholdings" means the amount withheld by a business from the wages of full-time employees or estimated taxes paid by, or on behalf of, partners that are full-time employees, or any combination thereof, pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and, if the full-time employee is an employee whose position has moved to New Jersey but whose income is not subject to the New Jersey gross income tax pursuant to N.J.S.A. 54A:1-1 et seq., the amount of withholding that would occur if the employee were to move to New Jersey.] Withholdings shall not include amounts withheld by a business from stock options or from stock options, money, or other payments given to a full-time employee pursuant to the termination of employment of the full-time employee. Withholdings shall include amounts withheld by a business from money or other payments given to a full-time employee pursuant to a bonus for commencing employment or for services rendered by the full-time employee.

19:31-18.6 Fees

(a)-(f) (No change.)

(g) For each project with total tax credits of \$ 5,000,000 **or less**, a non-refundable fee of \$ 5,000 shall be paid for each request for any administrative changes, additions, or modifications to the tax credit; and a non-refundable fee of \$ 7,500 shall be paid for any major changes, additions, or modifications to the tax credit, such as those requiring extensive staff time and Board approval. For each project with total tax credits in excess of \$ 5,000,000, a non-refundable fee of \$ 10,000 shall be paid for each request for any administrative changes, additions, or modifications to the tax credit; and a non-refundable fee of \$ 25,000 shall be paid for any major changes, additions, or modifications to the tax credit, such as those requiring extensive staff time and Board approval.

(h)-(i) (No change.)

19:31-18.8 Determination of grant amount; bonus award

(a) The total amount of **the** tax credit for an eligible business shall be for each new or retained full-time job as set forth in this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period; however, except as set forth in N.J.A.C. 19:31-18.11(e), the total tax credit amount credited annually to the business shall not exceed the maximum amount determined by the Board under N.J.A.C. 19:31-18.7(d) and the amount calculated pursuant to N.J.A.C. 19:31-18.7(g), divided by the number of years in the eligibility period. The total amount of tax credit shall be calculated by combining the jobs in buildings that have the same factors set forth in this section that affect the tax credit calculation. The total amount of tax credit shall be calculated separately for jobs in a building with factors that are different than the factors affecting the calculation for jobs in the other buildings in a complex of buildings. Notwithstanding that the total tax credit for jobs in different buildings may be calculated separately, forfeitures pursuant to N.J.A.C. 19:31-18.15 and defaults and recaptures included in the incentive agreement pursuant to N.J.A.C. 19:31-18.10(b) shall be based on the aggregate capital investment and eligible full-time jobs.

(b) The base amount of the tax credit for each new or retained full-time job shall be as follows:

1. For a qualified business facility located within an urban transit hub municipality, [or] **in a Garden State Growth Zone, a Garden State Create Zone and used by an eligible business in a targeted industry to conduct a collaborative research relationship with a doctoral university within the zone, or which** is a mega project, \$ 5,000 per year;

2.-4. (No change.)

(c) In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased if the qualified business facility meets any of the following priority criteria or other additional or replacement criteria determined by the Authority from time to time in response to evolving economic or market conditions, provided that (c)5, 6, 8, and 10 below shall not apply to a qualified incubator facility:

1.-9. (No change.)

10. For a mega project or a project located within a Garden State Growth Zone at which the capital investment in industrial premises for industrial use by the business [is in excess of] **exceeds** the minimum capital investment required for eligibility pursuant to subsection [b.] **b** of section 3 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-244), an increase of \$ 1,000 per year for each additional amount of investment, as measured in square feet of measured gross leasable area, that exceeds the minimum amount by 20 percent, with a maximum increase of \$ 5,000 per year;

11.-15. (No change.)

16. For a project that generates solar energy on site for use within the project of an amount that equals at least 50 percent of the project's annual electric supply service needs, an increase of \$ 250.00 per year; [and]

17. For a qualified business facility in a vacant commercial building or campus having over 1,000,000 square feet of office or laboratory space available for occupancy for a period of over one year that the Authority designates, as listed on the Authority's website at www.njeda.com, an increase of \$ 1,000 per year[.]; **and**

18. For an eligible business in a targeted industry at a qualified business facility on the campus of a college or university other than a doctoral university, or at a qualified business facility within a three-mile radius of the outermost boundary of the campus of a college or university other than a doctoral university, which facility is used by the business to conduct a collaborative research relationship with the college or university, an increase of \$ 1,000 per year. The boundary of the campus of a college or university shall be based upon a map appearing in the college's or university's official catalog or other official publication on August 7, 2017, the effective date of P.L. 2017, c. 221.

(d) The gross amount of the tax credit for an eligible business for each new or retained full-time job shall be the sum of the base amount as set forth pursuant to (b) above and the various additional bonus amounts for which the business is eligible pursuant to (c) above, subject to the following limitations:

1. (No change.)

2. For a qualified business facility located within an urban transit hub municipality **or a Garden State Create Zone**, the gross amount for each new or retained full-time job shall not exceed \$ 12,000 per year;

3.-6. (No change.)

(e) (No change.)

(f) For each application approved by the Board, the amount of tax credits available to be applied by the business annually shall not exceed:

1.-2. (No change.)

3. Ten million dollars (\$ 10,000,000) and provides a net positive economic benefit to the State with respect to a qualified business facility in an urban transit hub municipality **or a Garden State Create Zone**;

4.-6. (No change.)

(g)-(h) (No change.)

SUBCHAPTER 19. ANGEL INVESTOR TAX CREDIT PROGRAM

19:31-19.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority [(Authority)] to implement the New Jersey Angel Investor Tax Credit Act, P.L. 2013, c. 14 ([the] Act). The Act authorizes credits against corporation business and gross income taxes for qualified investments in New Jersey emerging technology

businesses **or in New Jersey emerging technology holding companies** to spur job creation and growth in New Jersey's current and next generation of high-skill, high-wage emerging technology industries.

19:31-19.2 Definitions

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

...

"Carbon footprint reduction technology" means a technology using equipment for the commercial, institutional, and industrial sectors that increases energy efficiency, develops and delivers renewable or non-carbon-emitting energy technologies, develops innovative carbon emissions abatement with significant carbon emissions reduction potential, or promotes measurable electricity end-use energy efficiency.

...

"Electronic device technology" means a technology involving microelectronics, semiconductors, electronic equipment[,], and instrumentation, radio frequency, microwave[,], and millimeter electronics, and optical and optoelectrical devices, or data and digital communications and imaging devices.

"Eligible technology" means advanced computing, advanced materials, biotechnology, **carbon footprint reduction technology**, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, or renewable energy technology.

...

"Mobile communications technology" means a technology involving the functionality and reliability of the transmission of voice and multimedia data using a communication infrastructure via a computer or a mobile device, that shall include, but [shall] not be limited to, smartphones, electronic books and tablets, [mp3] **digital audio** players, motor vehicle electronics, home entertainment systems, and other wireless appliances, without having to be connected to any physical or fixed link.

...

"New Jersey emerging technology business holding company" means any corporation, association, firm, partnership, trust, or other form of business organization, but not a natural person, which directly or indirectly, owns, has the power or right to control, or has the power to vote, a controlling share of the outstanding voting securities of a corporation or other form of a New Jersey emerging technology business.

...

"Pilot scale manufacturing" means **the** design, construction, and testing of preproduction prototypes and models in an eligible technology other than for commercial sale, excluding sales of prototypes or sales for market testing if **the** total gross receipts, as calculated in the manner provided in section 6 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-6), from [such] **the** sales of the product, service, or process do not exceed \$ 1 million.

...

"Qualified investment" means the non-refundable transfer of cash to a New Jersey emerging technology business **or to a New Jersey emerging technology business holding company** by an investor that is not a related person of the New Jersey emerging technology business **or the New Jersey emerging technology business holding company**, at the time of the transfer of cash, the transfer of which is in exchange for:

1. (No change.)

2. A purchase, production, or research agreement **between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology business holding company or both.**

For the transfer of cash to be considered non-refundable, the assets received by the investor in the exchange referred to in paragraph 1 above and the agreements entered into by the investor referred to in paragraph 2 above must be held or not expire for at least two calendar years from the date of the exchange, with the exception of initial public offerings (IPOs), mergers and acquisitions, damage awards for the New Jersey emerging technology business's default of an agreement, or other return of initial cash outlay beyond the investor's control.

...

"Verified transfer of funds" means a non-refundable transfer of funds equal to 100 percent of the taxpayer's qualified investment in the New Jersey emerging technology business holding company to a New Jersey emerging technology business by the New Jersey emerging technology business holding company that is accompanied by documentation, as required by the Authority, which provides proof of a cash transaction originating with a taxpayer and concluding with a New Jersey emerging technology business, provided that the transactions from origin to destination occur within the same tax year.

19:31-19.3 Eligibility criteria

(a) In order to be considered for tax credits under the Angel Investor Tax Credit Program, an investor shall make a qualified investment in a New Jersey emerging technology business **or a New Jersey emerging technology business holding company.**

(b) The Program applies to privilege periods and taxable years beginning on or after January 1, 2012, **except that the Program applies to qualified investments in New Jersey emerging technology businesses, and in New Jersey emerging technology business holding companies that make verified transfers of funds to New Jersey emerging technology businesses, that conduct technology commercialization in this State in the field of carbon footprint reduction technology for privilege periods and taxable years beginning on or after May 1, 2017.** For qualified investments made on or before July 1, 2013, an investor must submit a completed application by July 1, 2014, **except that a completed application for qualified investments in New Jersey emerging technology business holding companies made before May 1, 2017, must be submitted by December 31, 2017.** For all other qualified investments in a New Jersey emerging technology business, an investor must submit a completed application within six months of the date of the qualified investment, **and for all other qualified investments in a New Jersey emerging technology business holding company, within six months of the date of the verified transfer of funds.**

(c)-(d) (No change.)

(e) For qualified investments in a New Jersey emerging technology business holding company, the verified transfer of funds shall be evidenced by documentation, which provides proof of a cash transaction originating with a taxpayer and concluding with a New Jersey emerging technology business, provided that the transactions from origin to destination occur within the same tax year.

19:31-19.4 Application submission requirements

(a) (No change.)

(b) A completed application shall include, but not be limited to, the following:

1. (No change.)

2. New Jersey emerging technology business information, which shall include:

i. (No change.)

ii. At the time of the qualified investment and at [the earliest of six months after the qualified investment or] the time of application, **except that applications for qualified investments in New Jersey emerging technology business holding companies made before May 1, 2017, shall provide the following information as of the time of the qualified investment and at the earliest of six months after the verified transfer of funds or the time of application:**

(1)-(2) (No change.)

iii. At the time of application, submission of a tax clearance certificate, pursuant to P.L. 2007, c. 101 (N.J.S.A. 54:50-39); [and]

3. New Jersey emerging technology business holding company information, if applicable, which shall include:

i. At the time of the qualified investment:

(1) The name, address, and Federal tax identification number; and

(2) A list of 100 percent of ownership of the holding company by percentage;

ii. At the time of the verified transfer of funds, evidence of the verified transfer of funds, including the documentation demonstrating that the verified transfer of funds was made, as required in N.J.A.C. 19:31-19.3(e), which shall include bank statements from the New Jersey emerging technology business holding company showing the funds flow from holding company to emerging technology company; and

iii. At the time of application:

(1) Submission of a tax clearance certificate, pursuant to P.L. 2007, c. 101 (N.J.S.A. 54:50-39); and

(2) Certification from the chief executive officer of the New Jersey emerging technology business holding company that the verified transfer of funds is a permanent transfer of cash to the New Jersey emerging technology business; and

[3.] **4.** (No change in text.)

19:31-19.6 Tax credit amount; overpayment and carryforward of tax credits

(a) A taxpayer, upon eligibility review and approval of the investor's application by the Authority in consultation with the Director, and upon issuance of a tax credit certificate by the Division of Taxation, shall be allowed a credit against the tax imposed under the Corporation Business Tax, section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5) or New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., in an amount equal to 10 percent of the qualified investment made by the investor in a New Jersey emerging technology business **or in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business**, up to a maximum allowed credit of \$ 500,000 for the tax credit vintage year for each qualified investment made by the investor.

(b) (No change.)

(c) The credit for a corporation that has made a valid election as a New Jersey S corporation pursuant to section 3 of P.L. 1993, c. 173 (N.J.S.A. 54:10A-5.22) may be applied by the shareholders of the S corporation against the tax liability otherwise due under the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., provided that the amount of credit that may be used by a shareholder of the S corporation shall be determined by allocating to each shareholder of the S corporation that proportion of the tax credit of the S corporation that is equal to the shareholder's proportionate share of the S corporation, whether or not

distributed, of the total distributive income or gain of the S corporation for its tax period ending with or within the shareholder's tax period, and the credit may be applied by the shareholders against the tax liability otherwise due pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq.

[(c)] **(d)** The amount of the credit allowed shall be applied against the tax otherwise due under the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., for the tax credit approval year after all other credits and payments. If the credit exceeds the amount of tax liability otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.A. 54A:9-7, provided, however, that N.J.S.A. 54A:9-7.f shall not apply. The 15-year carryforward in [(e)] **(f)** below is not applicable to a credit claimed under the New Jersey Gross Income Tax Act.

[(d)] **(e)** (No change in text.)

[(e)] **(f)** Except as provided in [(f)] **(g)** below, the amount of tax credit otherwise allowable against the tax imposed pursuant to the Corporation Business Tax, section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), which cannot be applied for the tax credit approval year against tax liability otherwise due for that tax credit approval year may either be carried over, if necessary, to the 15-tax years following the tax credit approval year or, at the election of the taxpayer, be claimed as and treated as an overpayment for the purposes of N.J.S.A. 54:49-15, provided, however, that section 7 of P.L. 1992, c. 175 (N.J.S.A. 54:49-15.1) shall not apply.

[(f)] **(g)** (No change in text.)

19:31-19.7 Evaluation process; award of tax credits; appeals

(a)-(c) (No change.)

(d) An applicant investor may appeal the Authority's action by submitting in writing to the Authority, within 20 days from the date of the Authority's action, an explanation as to how the investor, [or] the New Jersey emerging technology business, **and/or the New Jersey emerging technology business holding company** has met the program criteria. Appeals will be handled by the Authority as follows:

1.-3. (No change.)

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