

CHAPTER 35**DIVISION OF COMMERCIAL RECORDING****Authority**

N.J.S.A. 14A:1-1 et seq., 14A:1-10, 52:16A-3, 52:16A-11, 52:16A-40, 56:1-1 et seq. and 56:3-1 et seq.

Source and Effective Date

R.2003 d.361, effective August 13, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 35, Division of Commercial Recording, expires on February 9, 2009. See: 40 N.J.R. 3969(a).

Chapter Historical Note

Chapter 2 of Title 15, Division of Commercial Recording, was recodified as N.J.A.C. 17:35 and readopted as R.2003 d.361, effective August 13, 2003. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. EXPEDITED SERVICES**17:35-1.1 Services which will be provided on an expedited basis**

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

1. Any information contained in the annual report of a corporation or a limited partnership;
2. A certificate of standing, either long form, short form, or certificate listing charter documents;
3. A certified or uncertified copy of document, except trade name filing, filed with the Filing Office;
4. A certificate as to the existence or nonexistence of any document, except trade name filings on record with the Filing Office;
5. The availability of a corporate name or a limited partnership name;
6. Filing corporate documents or limited partnership documents;
7. The name and address of the registered agent of a corporation or limited partnership;
8. The filing date of a certificate of incorporation for a domestic corporation or the filing date of a certificate of limited partnership or the filing date for a certificate of qualification for a foreign corporation or limited partnership;
9. The name and address of the corporation's or a limited partnership's registered agent;
10. A U.C.C. 1 filing pursuant to N.J.S.A. 12A:9-516 et seq.;
11. A U.C.C. 3 filing pursuant to N.J.S.A. 12A:9-516 et seq.;
12. A U.C.C. 3 filing pursuant to N.J.S.A. 12A:9-516 et seq. provided that the U.C.C. 11 search shall not exceed 20 filings. Searches over 20 filings can be expedited but may not be completed within the same day;
13. An application to be a Notary Public;
14. An application to renew one's commission as a Notary Public;
15. Certification of an official signature of a document, when the official's signature is on file with the Filing Office. This includes the issuances of apostilles.

(b) The Filing Office shall provide expedited telephone service for the following requests:

1. The availability of a corporate name or limited partnership name;
2. Whether or not a corporation's certificate of incorporation or authority has been voided or revoked;
3. The name and address of the registered agent of a corporation or limited partnership;
4. The filing date of a certificate of incorporation for a domestic corporation or limited partnership or the filing date for a certificate of qualification for a foreign corporation or limited partnership;
5. The name and address of the registered agent of a corporation or limited partnership which has filed a fictitious/alternate name certificate;
6. The date when the last annual report was filed for a corporation or limited partnership.

(c) The Department of the Treasury may add to or modify its expedited services program in order to take advantage of technological advances or to respond to new/evolving filing and information access needs of the business community and general public. All expedited program changes must be published on the Filing Office website at www.state.nj.us/treasury/revenue.

Amended by R.1985 d.327, effective July 1, 1985.
See: 17 N.J.R. 897(a), 17 N.J.R. 1670(a).
Amended by R.1988 d.202, effective May 2, 1988.
See: 20 N.J.R. 522(b), 20 N.J.R. 997(a).
Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).
Amended N.J.S.A. references throughout; added (c).

17:35-1.2 Definitions

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

"Expedited service" means priority same day service effected in a fast and efficient manner.

"Filing Office" means the Department of the Treasury, Division of Revenue, Bureau of Business Support Services.

"Over the counter services" means:

1. Documents delivered to the Filing Office's expedited services counter by hand or by express mail (Federal Express, etc.);
2. Subject to the approval of the Filing Office, documents telefaxed or transmitted electronically to the Filing Office;
3. Information requests made at the Filing Office's expedited service counter or any other location designated by the Filing Office.

"Same Day" means as soon as possible by no later than 8.5 business hours from the time the request is received. The business day runs from 8:30 A.M. to 5:00 P.M. on all weekdays other than State holidays.

Amended by R.1988 d.202, effective May 2, 1988.
See: 20 N.J.R. 522(b), 20 N.J.R. 997(a).
Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).
Added "Filing Office".

17:35-1.3 Exceptions

(a) Expedited service shall be rendered as soon as possible, but may extend beyond 8.5 business hours if the computer system utilized by the Filing Office is down, or if the Filing Office experiences other difficulties beyond its control, making an 8.5 business hour response impossible. In such cases, upon resuming normal operations, the Filing Office will process 8.5 business hour requests on a first-in first-out basis, with priority over mail-in requests.

(b) Any over the counter service may be rejected by the Filing Office unless the submission has a cover sheet issued by the Filing Office. The Filing Office may design the cover sheet and may from time to time redesign the cover sheet.

Amended by R.1985 d.327, effective July 1, 1985.
See: 17 N.J.R. 897(a), 17 N.J.R. 1670(a).
"Commercial" substituted for "corporate".
Amended by R.1988 d.202, effective May 2, 1988.
See: 20 N.J.R. 522(b), 20 N.J.R. 997(a).
Amended by R.1998 d.295, effective June 15, 1998.
See: 30 N.J.R. 796(a), 30 N.J.R. 2269(b).
In (a), substituted references to 8.5 business hours for references to the same day.
Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).
Rewrote (a).

17:35-1.4 Fees for expedited service

(a) Fees for over the counter corporation service shall be as follows:

1. Filing of document:
 - i. Without certified copy; statutory fee plus \$15.00;
 - ii. With copy to be certified: statutory filing fee, certification fee of \$25.00 plus \$15.00.
2. Request for copy of annual report requested at the same time:
 - i. One report—\$2.00 plus \$15.00;
 - ii. Two reports—\$4.00 plus \$15.00;
 - iii. Three reports—\$6.00 plus \$15.00;
 - iv. Four reports—\$8.00 plus \$20.00;
 - v. Five reports—\$10.00 plus \$20.00;
 - vi. Six reports—\$12.00 plus \$20.00;
 - vii. Seven reports—\$14.00 plus \$25.00;

viii. Eight reports—\$16.00 plus \$25.00;

ix. Nine reports—\$18.00 plus \$25.00;

x. Ten reports—\$20.00 plus \$30.00.

3. Certificate of standing:

i. Short form standing certificate which includes registered agent and registered office: \$25.00 plus \$15.00;

ii. Long form standing certificate which includes registered agent and registered office, incorporators, officers, directors, and number of authorized shares: \$25.00 plus \$15.00.

4. Status report(s) which includes name availability, the name and address of the registered agent, corporation or limited partnership name, whether corporation charter is still valid, and whether the corporation or limited partnership has filed a fictitious/alternate name. Fees for report(s) requested, at the same time are as follows:

i. One report—\$5.00 plus \$15.00;

ii. Two reports—\$10.00 plus \$15.00;

iii. Three reports—\$15.00 plus \$15.00;

iv. Four reports—\$20.00 plus \$20.00;

v. Five reports—\$25.00 plus \$20.00;

vi. Six reports—\$30.00 plus \$20.00;

vii. Seven reports—\$35.00 plus \$25.00;

viii. Eight reports—\$40.00 plus \$25.00;

ix. Nine reports—\$45.00 plus \$25.00;

x. Ten reports—\$50.00 plus \$30.00.

5. Certificate of name availability one to three names: \$25.00 plus \$15.00.

6. For each page photocopied: \$1.00 per page.

7. For each request for an uncertified copy of a document filed with this office, other than the annual report, the fee is \$15.00 plus \$1.00 per page photocopied.

8. There shall be an additional charge of \$25.00 to certify any document.

(b) Fees for over the counter U.C.C. service shall be as follows:

1. Filing of a U.C.C. 1, a U.C.C. 1 with assignment, U.C.C. 3 or a separate assignment: \$25.00 plus \$15.00;

2. Search request: \$25.00 plus \$15.00;

3. Search request and photocopies: \$25.00 plus \$15.00, plus \$1.00 per page photocopied;

4. Request for copy(ies): \$15.00 plus \$1.00 per page photocopied;

5. Filing U.C.C. 1 and search request to reflect filing: \$50.00 plus \$15.00.

(c) Expedited telephone service shall be provided for:

1. Status reports which include:

i. Availability of a corporate name or a limited partnership name;

ii. Whether a corporation's certificate of incorporation or a limited partnership certificate has been voided or revoked;

iii. The date of incorporation or the date of formation of a limited partnership or the date of qualification of a foreign corporation or limited partnership;

iv. The name and address of the registered agent of a corporation or limited partnership which has filed a fictitious name certificate;

v. The corporation's number;

vi. The date when the last annual report was filed.

2. The fees for status report(s) requested at the same time are as follows:

i. One report—\$5.00 plus \$15.00;

ii. Two reports—\$10.00 plus \$15.00;

iii. Three reports—\$15.00 plus \$15.00;

iv. Four reports—\$20.00 plus \$20.00;

v. Five reports—\$25.00 plus \$20.00;

vi. Six reports—\$30.00 plus \$20.00;

vii. Seven reports—\$35.00 plus \$25.00;

viii. Eight reports—\$40.00 plus \$25.00;

ix. Nine reports—\$45.00 plus \$25.00;

x. Ten reports—\$50.00 plus \$30.00.

Amended by R.1985 d.327, effective July 1, 1985.

See: 17 N.J.R. 897(a), 17 N.J.R. 1670(a).

"Expedited" substituted for "corporation" and substantially amended.

Amended by R.1988 d.202, effective May 2, 1988.

See: 20 N.J.R. 522(b), 20 N.J.R. 997(a).

Amended by R.1993 d.193, effective May 3, 1993.

See: 25 N.J.R. 901(a), 25 N.J.R. 1884(a).

Revised fees.

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

Increased the fees throughout.

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

(a) All fees for expedited service performed by the Filing Office may be paid via a pre-paid deposit account or charged against a major credit card held by the service user. A check payable to the Treasurer, State of New Jersey is also acceptable payment for hand deliveries.

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

2. Major approved credit cards shall be defined for the purposes of this section as those credit cards accepted by the Filing Office.

New Rule. R.1985 d.326, effective July 1, 1985.

See: 17 N.J.R. 898(a), 17 N.J.R. 1671(a).

Amended by R.1988 d.202, effective May 2, 1988.

See: 20 N.J.R. 522(b), 20 N.J.R. 997(a).

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

In (a), added a second sentence in the introductory paragraph.

SUBCHAPTER 2. PRECLEARANCE OF DOCUMENTS

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

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

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

Substituted "Treasurer, via the filing office" for "Secretary of State" following "filed with the".

17:35-2.2 Preclearance submission procedure

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

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

2. Is faxed to the Filing Office with a cover sheet clearly indicating that the document is submitted for preclearance.

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

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

17:35-2.3 Preclearance fees

Any person who submits any documents for preclearance shall pay to the Filing Office a flat fee of \$100.00. In addition, if preclearance review consumes more than one hour of Filing Office personnel time, an additional fee of \$50.00 per each additional hour or part thereof will be charged.

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

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

(a) All fees for preclearance service performed by the Filing Office may be paid via a pre-paid deposit account or charged against a major credit card held by the service user. A check payable to the Filing Office is also acceptable payment for hand deliveries.

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

2. Major credit cards shall be defined for the purposes of this section as those credit cards accepted by the Filing Office.

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

SUBCHAPTER 3. NAME AVAILABILITY

17:35-3.1 Distinguishable defined

(a) A corporation name can be distinguished from other names recorded with the Filing Office if it is sufficiently different from those other names. All changes except for the following should be sufficient to distinguish one corporate name from another upon the records of the Filing Office:

1. The insertion or deletion of capitalization or a mark of punctuation, such as a comma, period, hyphen, etc.;

2. The changing of a word in a corporate title into its plural or singular form;

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

4. The addition of an article ("a", "an", or "the");

5. The addition of spaces in a corporate name; and or

6. The misspelling in the word of a corporate name.

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(h), 35 N.J.R. 4296(a).

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

Added "Filing Office" and "Treasurer"; deleted "Secretary" or "Secretary of State".

SUBCHAPTER 4. TRADE/SERVICE MARKS

17:35-4.1 Definitions

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

"Applicant" means the person filing an application under this subchapter, and the legal representatives, successors or assigns of that person.

"Filing Office" means the Department of the Treasury, Division of Revenue, Bureau of Business Support Services.

"Mark" means any trademark or service mark entitled to registration under this subchapter, whether registered or not.

"Owner" means a person who has legal rights to a mark either as a result of registration or at common law.

"Person" means a natural person, and also includes a firm, partnership, corporation, union, association, or other organization capable of suing and being sued in a court of law.

"Registrant" means the person to whom the registration of a mark under this subchapter is issued, and the legal representatives, successors, or assigns of that person.

"Service mark" means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of one person, including a unique service, from the services of others, and to indicate the source of services, even if that source is unknown. Service mark includes titles, character names used by a person, and other distinctive features of radio or television programs, notwithstanding that they, or the programs, advertise the goods of the sponsor.

"Trade name" means any name used by a person to identify a business or vocation of the person.

"Trademark" means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of the person, including a unique product, from those manufactured and sold by others, and to indicate the source of the goods, even if that source is unknown.

"Treasurer" means the Treasurer, State of New Jersey or the designee of the Treasurer charged with the administration of this subchapter.

17:35-4.2 Mark registration

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

1. Submitting a type-written or machine-printed application, along with a \$50.00 check made payable to the Treasurer, State of New Jersey, to the Trade/Service Mark Section, Division of Revenue, (PO Box 453, Trenton, NJ 08625-0453). The application must include the following information:

i. A statement of purpose (for example, Original Application to Register a Mark pursuant to N.J.S.A. 56);

ii. The type of mark (an application may be for a trademark or service mark, not both);

iii. The name and description of the mark;

iv. The name and business address of person applying for the mark, and if a corporation, the state of incorporation, or if a partnership, the state in which the partnership is organized and the names of the general partners;

v. If applicable, the name and address of the party to whom ownership of the mark is assigned;

vi. The goods or services involved and the classification within which the goods or services fall (see N.J.A.C. 17:35-4.5 for information on classification);

vii. The date the mark was first used anywhere and/or the date when it was first used in this State, by the applicant or predecessor in interest;

viii. A statement of ownership and use conforming to N.J.S.A. 56:3-3.3(d) such as: "The applicant attests that he or she is the owner of the mark, that the mark is in use, and that, to his or her knowledge, no other person has registered the mark, either with the U.S. Patent and Trademark Office or with the State Treasurer, or has the right to use the mark or a mark in such near resemblance as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive";

ix. The verified signature of the applicant and assignee (if applicable) attesting to the truthfulness of the information in the application (verification may be by oath or affirmation); and

x. The date of signature.

2. The application must be accompanied by a drawing of the mark and three specimens showing the mark as actually used.

(b) Upon acceptance of the mark, the Filing Office will send a certificate of registration to the applicant. The certificate will list the name of the mark, an identification number, ownership information, and registration period (term) of the mark. The registration period is five years. Registrations may be renewed for subsequent five-year periods. Registrations also may be canceled, assigned or amended.

1. A good or service may fall within multiple classifications; therefore, a single application may include any and all classes to which the good or service belongs. For each additional class listed (that is, beyond the first class), there will be a charge of \$50.00. For example, if an application for a mark lists three classes, the total filing fee will be \$150.00—\$50.00 base fee plus \$50.00 for the two additional classes.

Amended by R.2003 d.361, effective September 15, 2003.

Sec: 35 N.J.R. 2411(b). 35 N.J.R. 4296(a).

In (a)lvi. amended the N.J.A.C. reference.

17:35-4.3 Mark life-cycle management

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

1. An owner may renew a mark by:

i. Submitting a type-written or machine-printed application, along with a \$50.00 check made payable to the Treasurer, State of New Jersey, to the Trade/Service Mark Section, Division of Revenue (PO Box 453, Trenton, NJ 08625-0453). The application may be submitted any time within six months prior to the expiration of the registration period. The application shall include the following information:

(1) A statement of purpose (for example, Renewal of a Registered Mark pursuant to N.J.S.A. 56);

(2) The trademark/service mark identification number as assigned by the Filing Office listed on the Certificate of Registration;

(3) The classification within which the goods or services fall (see N.J.A.C. 17:35-4.5 for information on classification);

(4) The name and business address of the owner (owner name on application must match owner name shown on the Filing Office's records; owner address on application may be different; the Filing Office will enter the new address as part of the renewal transaction);

(5) If applicable, the name and address of the party to whom ownership of the mark is assigned;

(6) A verified statement of continued use conforming to N.J.S.A. 56:3-3.5 such as: "The applicant attests that the mark has been and still is in use";

(7) The signature of the owner and assignee (if applicable); and

(8) The date of signature.

ii. The application shall be accompanied by a specimen showing the mark as actually used.

iii. The renewed registration period is five years. Registrations may be renewed for subsequent five year periods.

iv. A good or service may fall within multiple classifications; therefore, a single application may include any and all classes to which the good or service belongs. For each additional class listed (that is, beyond the first class), there will be a charge of \$50.00. For example, if an application for a mark lists three classes, the total filing fee will be \$150.00—\$50.00 base fee plus \$50.00 each for the two additional classes.

v. A renewal application shall not include alterations to the mark name or drawings/facsimiles associated with the original registration. A new registration application shall be submitted if changes to any of these elements occur.

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

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

(1) A statement of purpose (for example, Assignment of a Registered Mark pursuant to N.J.S.A. 56);

(2) The trademark/service mark identification number as assigned by the Filing Office and listed on the certificate of registration;

(3) The name and business address of the owner (owner name/address shown on the Filing Office's records);

(4) The name and address of the party to whom ownership of the mark is assigned;

(5) The signatures of the owner and assignee; and

(6) The date of signature.

ii. An assignment application shall not be used to change and/or add mark classifications. The amendment process shall be used for this purpose (see N.J.A.C. 17:35-4.3(b)). Further, an assignment application shall not include alterations to the mark name or drawings/facsimiles associated with the original registration. A new registration application shall be submitted if changes to any of these elements occur.

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

i. Submitting a type-written or machine-printed application, along with a \$50.00 check made payable to the Treasurer, State of New Jersey, to the Trade/Service Mark Section, Division of Revenue (PO Box 453, Trenton, NJ 08625-0453). The application shall include the following information:

- (1) A statement of purpose (for example, Assignment of a Registered Mark pursuant to N.J.S.A. 56);
- (2) The trademark/service mark identification number as assigned by the Treasurer and listed on the certificate of registration;
- (3) The name and business address of the owner (owner name/address on application must match owner name/address shown on the Filing Office's records);
- (4) The type of change (name change, address change and/or classification change);
- (5) Details (for example, new name/address spelled-out or instructions to add/delete classification);
- (6) The owner's signature; and
- (7) The date of signature.

ii. An amendment may add more than one new classification for the mark. For each additional class, there will be a charge of \$50.00. For example, if the amendment application lists three new classes, the total filing fee will be \$150.00—\$50.00 base fee plus \$50.00 each for the two additional classes.

4. An owner may cancel a registered mark by:

i. Submitting a type-written or machine-printed application, along with a \$50.00 check made payable to the Treasurer, State of New Jersey, to the Trade/Service Mark Section, Division of Revenue (PO Box 453, Trenton, NJ 08625-0453). The application shall include the following information:

- (1) A statement of purpose (for example, Cancellation of a Registered Mark pursuant to N.J.S.A. 56);
- (2) The trademark/service mark identification number as assigned by the Filing Office and listed on the certificate of registration;

(3) The name and business address of the owner (owner name/address on application must match owner name/address shown on the Filing Office's records);

(4) A request to cancel the mark;

(5) The owner's signature; and

(6) The date of signature.

Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

Amended the N.J.A.C. references throughout.

17:35-4.4 Mark review/rejection criteria and applicant appeals

(a) This section is intended to clarify basic review/rejection criteria and the circumstances that may trigger appeals by persons seeking to file documents with the Treasurer, State of New Jersey. Nothing stated here is intended to restrict repeal rights or the broader powers of review and administrative action delegated to the Treasurer under N.J.S.A. 56:3-13.1 et seq.

(b) The Treasurer shall review all filing applications for the inclusion of the mandatory information elements and fees listed in the applicable sections of this subchapter, that is:

1. Original registration application—see N.J.A.C. 17:35-4.2;
2. Renewal application—see N.J.A.C. 17:35-4.3(a);
3. Assignment application—see N.J.A.C. 17:35-4.3(b);
4. Renewal application—see N.J.A.C. 17:35-4.3(a);
5. Assignment application—see N.J.A.C. 17:35-4.3(b);
6. Amendment application—see N.J.A.C. 17:35-4.3(c);
7. Cancellation application—see N.J.A.C. 17:35-4.3(d); and
8. Fees—see N.J.A.C. 17:35-4.6.

(c) Any application that is missing mandatory information elements and/or fees shall be rejected and returned for correction. Rejections for missing information or fees are not considered final and therefore should not result in any form of appeal.

(d) For original and renewal applications, the Treasurer will review the State's Trade Name and Trade Mark/Service Mark data bases to identify possible conflicts (that is, cases in which the proposed mark is duplicative of an active trade name, trademark, or service mark). Any application containing a mark that is duplicative of an active trade name, trademark, or service mark shall be rejected and returned to the applicant along with a listing of the duplicative name(s).

(e) Applicants may resubmit an application rejected for a name conflict. The resubmission shall be accompanied with written arguments and evidence that the names listed in the rejection notice are either abandoned or dissolved, or are not likely to cause confusion, mistakes or deception, under the meanings supplied in N.J.S.A. 56:3. The Treasurer may:

1. Reject the resubmission and request additional information, setting a time frame for response. Should the applicant fail to respond within the time frame, the application shall be considered abandoned; or
2. Reject the application with notice that the rejection is final.

(f) If the Treasurer denies a request for reconsideration of a decision refusing registration or renewal of registration of a trademark, denies a request for cancellation of a trademark, or denies a petition for voidance of a trademark, the petitioner may appeal that determination. Such appeal shall be pursuant to the procedures set forth in N.J.S.A. 56:3-1a(4), (5) and (6).

Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).
Amended N.J.A.C. references throughout.

17:35-4.5 Classification

N.J.S.A. 56:3-12 mandates that the Treasurer adopt a classification scheme that conforms with that adopted by the United States Patent and Trademark Office (USPTO) pursuant to 15 U.S.C. § 1112. Accordingly, the USPTO classification scheme is incorporated by reference into these rules. Upon the adoption of these rules, all original and renewed trade/services mark applications filed with the Filing Office must employ the classification listed in 15 U.S.C. § 1112. The previously existing scheme used for marks registered prior to the passage of P.L. 1995, c.171 will remain in effect for those marks until they expire or are cancelled or renewed.

Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

17:35-4.6 Fees

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

Service	Fee Amount
All Filing Applications (Original Registration, Renewal, Assignment, Amendment or Cancellation Applications)	\$50.00/each
For Each Additional Mark Classification Listed on an Application (Original, Registration, Renewal and Amendment Applications Only)	\$50.00/each
Photocopies of Filed Documents	\$1.00/page

Expedited Filing Service (8.5 business hour processing for work delivered over-the-counter to the Trade/Service Mark Section, 225 West State Street, 3rd Floor, Trenton, NJ 08608—charged in addition to basic filing fees) \$15.00/transaction (per filing application)

Same Day Filing Service (Same day processing for work delivered over-the-counter to the Trade/Service Mark Section, 225 West State Street, 3rd Floor, Trenton, NJ 08608, by 12:00 P.M. of any work day—charged in addition to basic filing fees) \$100.00/transaction (per filing transaction)

Amended by R.2003 d.361, effective September 15, 2003.

See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).

Increased the fee for expedited filing service from \$10.00 to \$15.00.

SUBCHAPTER 5. FACSIMILE FILING SERVICE

17:35-5.1 Filing service

(a) The Filing Office shall offer a telecopy filing service (hereafter termed facsimile filing service) for the following:

1. All business formation documents filed with the Filing Office; and
2. All amendatory filings for existing businesses on file with the Filing Office, except reinstatements and Annual Reports.

(b) The Filing Office may designate additional document types for inclusion in the facsimile filing service.

(c) Documents delivered via the facsimile filing service shall be processed the same work day received or within 8.5 business hours of receipt, based on the service level chosen by persons who deliver the documents via facsimile transmission.

Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).
Rewrote (c).

17:35-5.2 Definitions

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

“Delivered” means submitted to the Filing Office via direct facsimile transmission, or to any other location designated by the Filing Office.

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

“Processed” means that a facsimile document submitted via the facsimile filing service is reviewed by the Filing Office and accepted or rejected with the appropriate acknowledgment being sent back to the submitter, that is, rejection notice or stamped copy of approved facsimile document filing.

“Same work day” means processed as soon as possible but no later than the same business day on which a filing request is received, provided the request is delivered by 12:30 P.M. on a State business day. The business day runs from 8:30 A.M. to 5:00 P.M. on all weekdays other than State holidays.

Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).
Substituted “Same work day” for “Same day”.

17:35-5.3 Exceptions

Services pursuant to this subchapter shall be rendered as soon as possible, but may extend beyond the same work day or 8.5 business hours if the computer systems, facsimile devices, and/or communications systems utilized by the Filing Office malfunction, or if the Filing Office experiences other difficulties beyond its control, making a same work day or 8.5 business hour response impossible. In such cases, upon resuming normal operations, the Filing Office will first process same work day requests and then 8.5 business hour requests, on a first-in first-out basis, with priority over regular mail-in requests.

Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).
Rewrote the section.

17:35-5.4 Fees

The fee for same work day services rendered pursuant to this subchapter shall consist of a base fee of \$50.00 per document plus \$1.00 per page for any acknowledgment copy of a filed document that is transmitted back to the submitter via facsimile. The filing fee shall be in addition to the basic statutory filing fee usually charged for filing a document. The fee for 8.5 business hour services rendered pursuant to this subchapter shall consist of a base fee of \$15.00 per document plus \$1.00 per page for any acknowledgment copy of a filed document that is transmitted back to the submitter via facsimile. The filing fee shall be in addition to the basic statutory filing fee usually charged for filing a document.

Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).
Rewrote the section.

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

(a) All fees assessed pursuant to this subchapter may be paid via a pre-paid deposit account or charged against a major credit card held by the user of the facsimile filing service.

1. When a credit card is utilized as a method of payment, the user shall be charged a separate fee to cover reasonable bank fees incurred by the Filing Office in processing the credit charge. If no bank fees are incurred in processing the charges, no separate fee shall be charged.

2. Major approved credit cards for purposes of this subchapter shall be designated by the Filing Office.

Amended by R.2003 d.361, effective September 15, 2003.
See: 35 N.J.R. 2411(b), 35 N.J.R. 4296(a).