

## 16:1A-4.3 Exempt records

(a) The following Department records shall be exempt from public access:

1.-12. (No change.)

[13. Inspection records of signalized equipment;

14. New Jersey Highway Defense Requirements Bridge Records;]

**13. Bridge and structural records and plans relating to the Interstate Highway System, including all State roads;**

[15.] **14. Work papers, memoranda [or] reports, plans, or other records** that are made, maintained, or kept as part of any investigation by the Department into a matter involving any potential violation of civil or criminal law;

Recodify existing 16.-19. as **15.-18.** (No change in text.)

## 16:1A-4.4 Copying fees

[(a) Copies of records will be made available upon full payment, by check or money order made out to "New Jersey Department of Transportation," of the copying fees, which are as follows:

1. Page one through 10, \$ 0.75 per page;

2. Page 11 through 20, \$ 0.50 per page;

3. All pages over 20, \$ 0.25 per page;

4. Copying fees for traffic control signal operation and maintenance records shall be in accordance with N.J.A.C. 16:1A-4.5(b); and

5. Copying fees for traffic camera video records shall be in accordance with N.J.A.C. 16:1A-4.6(c).]

(a) **Copies of records will be made available upon full payment of the copying fees, by check or money order made payable to "New Jersey Department of Transportation." Ordinary copying fees shall be in accordance with N.J.S.A. 47:1A-5. The Department may require a 50 percent deposit for special service charges. The copying costs for the following non-exclusive list of records have been determined by the Department to be extraordinary, is provided in this section for ease of reference, and their copying fees are as follows:**

1. **Copies of drawings, maps, and plan sheets shall be \$2.00 per page or \$25.00 per compact disk. Copying costs for color copies of drawings, maps, and plan sheets will be based on actual costs;**

2. **Copying fees for traffic control signal operation and maintenance records shall be in accordance with N.J.A.C. 16:1A-4.5(c); and**

3. **Copying fees for traffic camera video records shall be in accordance with N.J.A.C. 16:1A-4.6(c).**

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

## 16:1A-4.5 Traffic control signal records

(a) All requests for **current** traffic control signal records, **other than date-specific signal records**, shall be submitted in writing and mailed to:

Bureau of Traffic Engineering [and Investigations]

New Jersey Department of Transportation

PO Box 600

Trenton, NJ 08625-0600

(b) **All requests for date-specific traffic control signal records shall be submitted in writing and mailed to:**

**Bureau of Roadway Maintenance Engineering and Operations**

**New Jersey Department of Transportation**

**PO Box 607**

**Trenton, NJ 08625-0607**

[(b)] (c) Requests shall be accompanied by the **following** fees [set forth in (c) below.]:

[(c) Copying fees for traffic control signal records are as follows:]

1. [Timing] **Current timing** - \$10.00;

2. [Plan] **Current plan** - \$15.00; and

3. Certification of [operation of signal on a specific date and time] **date-specific traffic control signal records** - \$100.00.

## 16:1A-4.6 Traffic camera video records

(a) All requests for traffic camera video records shall be made in writing on the Department's Video Log Request Form, which may be obtained at [[www.nj.gov/transportation/business/videolog](http://www.nj.gov/transportation/business/videolog)] [www.state.nj.gov/transportation/business/videolog](http://www.state.nj.gov/transportation/business/videolog). Completed forms may be sent to:

Executive Director, Statewide Traffic Operations

New Jersey Department of Transportation

P.O. Box 600

Trenton, NJ 08625

or submitted by facsimile to:

Fax: 609-530-2607

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

[APPENDIX

NEW JERSEY DEPARTMENT OF TRANSPORTATION  
ORGANIZATIONAL CHART

OFFICE OF ADMINISTRATIVE LAW NOTE: Appendix could not be reproduced in the New Jersey Administrative Code but may be reviewed on the Department of Transportation's website at <http://www.state.nj.us/transportation/about/pdf/orgchart.pdf> or by contacting:

Office of Administrative Law

9 Quakerbridge Plaza

PO Box 049

Trenton, NJ 08625-0049

609 588-6601]

## TREASURY — GENERAL

(a)

### DIVISION OF REVENUE AND ENTERPRISE SERVICES

#### Uniform Commercial Code (UCC)

**Proposed Readoption with Amendments: N.J.A.C. 17:33**

**Proposed New Rule: N.J.A.C. 17:33-2.9**

**Proposed Repeal and New Rule: N.J.A.C. 17:33-2.3**

Authorized By: Andrew Sidamon-Eristoff, State Treasurer.

Authority: N.J.S.A. 12A:9-501 and 12A:9-526.

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

Proposal Number: PRN 2014-162.

Submit comments by December 5, 2014, to:

Peter Lowicki, Acting Deputy Director, Operations

New Jersey Division of Revenue and Enterprise Services

PO Box 308

33 West State Street, 5th Floor

Trenton, NJ 08646

Attn: UCC Rule Proposal

FAX: 609-984-6832

[peter.lowicki@treas.nj.gov](mailto:peter.lowicki@treas.nj.gov)

The agency proposal follows:

#### Summary

Pursuant to Executive Order No. 66 (1978), and N.J.S.A. 52:14B-5.1.c, N.J.A.C. 17:33 will expire on October 10, 2014. As the Division of Revenue and Enterprise Services (DORES) filed this notice of readoption prior to that date, the expiration date is extended 180 days to April 8, 2015, pursuant to N.J.S.A. 52:14B-5.1.c(2).

Generally, the rules proposed for readoption are designed to foster uniformity by documenting New Jersey's basic UCC policies and procedures, as administered by DORES and to address the following objectives:

To foster greater understanding of UCC filing and information and retrieval practices in New Jersey;

To increase public access to UCC information and filing services;

To the extent possible, conform New Jersey's policies and procedures to those of other states, and to applicable national standards;

To increase the accountability of the filing office;

To increase public participation in the formulation of administrative policy and procedures; and

To maintain the integrity of the public filing system for UCC documents, by determining whether the information contained in UCC filings may be deciphered within the meaning of the UCC, and by assuring that the UCC filings are consistent with the purposes for which the UCC system was designed.

The primary purpose of the UCC itself is to record transactions intended to create a security interest between the debtor and secured party in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper, or accounts.

Although the revisions to New Jersey's UCC set restrictive guidelines under which the filing office may reject a UCC filing in N.J.S.A. 12A:9-516(b), N.J.S.A. 12A:9-516(c) provides that a record does not provide information if the filing office is unable to read or decipher the information in the record. In such instances, the filing office may reject such filings since the filings fail to provide decipherable information according to N.J.S.A. 12A:9-516(c).

For example, the filing office may receive filings that provide the same name as both the debtor and the secured party. Since it is unclear how an obligation can exist between a debtor and a secured party that is both the same individual, the filing office is unable to decipher such a record. In accordance with N.J.S.A. 12A:9-516(b)(3)(A), the filing office is unable to determine the name of the debtor and may refuse filing.

While the filing office is considered a depository for UCC filings, the filing office may not, contrary to the public interest and the legislative purpose, cause a substantial harm to the public and because of the volume of such filings, DORES proposes rejection criteria for certain filings as part of this chapter at Subchapter 5.

A summary of each subchapter proposed for readoption follows:

Subchapter 1 lists the purpose of the rules and basic definitions that relate to Uniform Commercial Code filing and information retrieval services.

Subchapter 2 defines general administrative information on Uniform Commercial Code services, such as the place to file and office hours, filing delivery instructions, and filing date and time determinations.

Subchapter 3 sets forth Uniform Commercial Code expedited service.

Subchapter 4 specifies acceptable payment types and related payment procedures.

Subchapter 5 details the criteria used to accept or reject UCC filings.

Subchapter 6 describes processing time limits, procedures upon refusal of filings, and the processing of notices and acknowledgements.

Subchapter 7 describes the UCC information management system.

Subchapter 8 describes UCC search request and report processes and procedures.

Throughout the chapter, several minor technical amendments, adjustments, and clarifications are proposed, as discussed. All references to the "Division of Revenue" or the "Division of Business Support Services Bureau" are changed to the "Division of Revenue and Enterprise Services" or the acronym "DORES." At N.J.A.C. 17:33-2.4(a)1, 2, and 3, 4.1(a)3, and 6.4, the address or zip code of DORES is updated.

Existing N.J.A.C. 17:33-2.3 is proposed for repeal and replacement to indicate the Divisions hours will be posted on its website, rather than specifically listed in the rule.

Proposed new N.J.A.C. 17:33-2.9 sets forth a requirement for electronic filing of UCC statements and amendments, with an exemption provision. Currently, approximately 75 percent of all UCC statements are filed electronically. Electronic filing saves the business community time and money, and yields more accurate and reliable results in terms of indexing and ultimately, retrieval of UCC records. DORES offers convenient and easy-to-use Internet-based services that allow for online entry of UCC index data, uploading of page attachments and multiple, secure fee payment options. As a result of this new rule, N.J.A.C. 17:33-2.4(a) and (a)4, 2.6(a)3, 3.1(a) and (b), 4.1(a)2 and 3, 6.2(b), and 6.7 are amended to reflect either the electronic filing requirement or the exemption permitted under new N.J.A.C. 17:33-2.9(b).

Proposed new N.J.A.C. 17:33-5.2(b) adds a provision for the removal of misleading filings from the public filing system. Such filings may cause substantial harm to the public and are contrary to the legislative purpose of the UCC. This provision effectively codifies existing administrative practices and serves to maintain the integrity of the system. As a result of the new subsection, N.J.A.C. 17:33-5 (the

subchapter heading), 6.2 (the heading), 6.3, 6.4 (the heading), and 6.7, are amended to include "removal" of a filing, not just refusal.

At N.J.A.C. 17:33-8.1, an amendment is proposed regarding lapsed filings, which indicates that pursuant to the underlying statute, on the first anniversary of the lapse date of any financing statement in the UCC system, records pertaining to such lapsed financing statement will no longer be available for public access.

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

#### **Social Impact**

The administration of the Uniform Commercial Code system has an important impact on society. UCC filings and information reflect and help to protect a secured party's interest in the collateral offered by a debtor for a loan or financing. In essence, the UCC gives public notice relative to the debtor-secured party relationship and the collateral involved. The rules proposed for readoption with amendments, a new rule and repeal will have a positive social impact by saving the business community money, providing higher quality results for searches and retrievals, and most importantly, by removing and deterring the filing of misleading transactions.

#### **Economic Impact**

The Uniform Commercial Code also has an important impact on the economy. By allowing for standardized commercial processes, including the filing and disclosure of secured loans, the UCC facilitates the flow of capital and commerce in this State. Promoting understanding and uniformity relative to UCC filing and information services helps to provide a solid foundation for the State's economy. In terms of the cost impacts on the private sector, the rules proposed for readoption with amendments, a new rule and repeal implement the service fees found in N.J.S.A. 12A:9-501 et seq. Further, as has been the case since the inception of the UCC in the 1960s, businesses will be required to invest administrative resources in completing various filing and information retrieval requests.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the rules proposed for readoption with amendments, a new rule and repeal relate strictly to the State of New Jersey and its Uniform Commercial Code statutes. The rules are, therefore, independent from any Federal systems or requirements.

#### **Jobs Impact**

The rules proposed for readoption with amendments, a new rule and repeal will not result in the creation or loss of jobs.

#### **Agricultural Industry Impact**

The rules proposed for readoption with amendments, a new rule and repeal will not have an impact on the agricultural industry, except to the extent that agricultural businesses may wish to file with and search the State's UCC system in accordance with this chapter.

#### **Regulatory Flexibility Analysis**

The rules proposed for readoption with amendments, a new rule and repeal are designed to foster uniformity by documenting New Jersey's basic UCC policies and procedures, as administered by the Division of Revenue and Enterprise Services. Anyone submitting UCC collateral filings or requesting searches of such filings, including small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., must utilize the forms and procedures set forth in this chapter. Fees and administrative costs that will be incurred are discussed in the Economic Impact above. No professional services are necessary to comply with this chapter. The Division considers the requirements of these rules to be the minimum necessary for the maintenance of a comprehensive, workable and accessible UCC filing system. For that reason, and because the requirements imposed are not administratively burdensome, the Division has not provided any exceptions or lesser requirements for small businesses.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments, a new rule and repeal will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to UCC filing office procedures.

**Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments, a new rule and repeal will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to UCC filing office procedures.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:33.

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

SUBCHAPTER 1. GENERAL PROVISION

17:33-1.1 Purpose

(a) [These rules] **This chapter** outlines the basic procedures of the filing officer, the State Treasurer, and the [filing office, Bureau of Business Support Services] **Filing Office**, Division of Revenue and Enterprise Services, in relation to the State of New Jersey’s Uniform Commercial Code system.

(b) Generally, [these rules are] **this chapter is** designed to foster uniformity by documenting New Jersey’s basic UCC policies and procedures, as administered by the Division of [Revenue/Business Support Services Bureau] **Revenue and Enterprise Services**.

17:33-1.2 Definitions

[For the purposes of these procedures and policies, the definitions below apply.] **The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.**

...  
 “Filing Office” means the Department of the Treasury, Division of Revenue[, Bureau of Business Support Services] and **Enterprise Services**, which hereafter shall be cited as [DOR/BSSB] **DORES**.  
 ...

“Filing number or file number” means the unique identifying information assigned to an initial financing statement by the [DOR/BSSB] **DORES** for the purpose of identifying the financing statement and UCC filings relating to the financing statement in the [DOR/BSSB’s] **DORES**’ information management system. The filing number bears no relation to the time of filing and is not an indicator of priority.  
 ...

“Remitter” means a person who tenders a UCC filing to the [DOR/BSSB] **DORES** for filing, whether the person is a filer or an agent of a filer responsible for tendering the filing. “Remitter” does not include a person responsible merely for the delivery of the document to the [DOR/BSSB] **DORES**, such as the postal service or a courier service, but does include a service provider who acts as a filer’s representative in the filing process.  
 ...

SUBCHAPTER 2. GENERAL ADMINISTRATIVE ELEMENTS

17:33-2.1 Place to file

UCC filings relating to all types of collateral shall be submitted to the [DOR/BSSB] **DORES**, except when the collateral is timber to be cut, as-extracted collateral, or when the filing relates to fixtures or goods [which] **that** are or are to become fixtures. Regardless of the nature of the collateral, where the debtor is a transmitting utility, the place for filing is the [DOR/BSSB] **DORES**.

17:33-2.2 [DOR/BSSB] **DORES** identification

In addition to the promulgation of [these procedures] **this chapter**, the [DOR/BSSB] **DORES** will disseminate information about its location, mailing address, telephone and fax numbers, and its Internet and other electronic “addresses.”

17:33-2.3 Office hours

[The DOR/BSSB maintains regular office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday, except holidays.] **Office hours for DORES will be posted on the Division’s website.**

17:33-2.4 UCC filing delivery, returns, and filing date and time

(a) **If paper** UCC filings [may] **are permitted pursuant to an exception granted under N.J.A.C. 17:33-2.9, they shall be** delivered to [DOR/BSSB] **DORES** at the addresses **set forth in (a)1 through 3** below. All **paper filing** deliveries must be accompanied with instructions for returning acknowledgments or notices of refusal **or removal**. [DOR/BSSB] **DORES** will return filing acknowledgments or send notices of refusal via first class mail or leave items to be picked up at its office location. [DOR/BSSB] **DORES** will also return acknowledgments and notices via overnight courier, provided the remitter supplies the required envelopes with the return address and prepaid waybills showing the remitter’s account with the courier.

1. Personal delivery, at the [DOR/BSSB’s] **DORES**’ street address. The address is [225] **33** West State Street, Trenton, NJ 08608, [3rd] **5th** Floor. The file date is the date of delivery. The file time for a UCC filing delivered by this method is no later than the next close of business following the time of delivery (even though the UCC filing may not yet have been accepted and may be subsequently refused). A UCC filing delivered after regular business hours or on a day the [DOR/BSSB] **DORES** is not open for business, will have a filing time of the close of business on the next workday that the [DOR/BSSB] **DORES** is open for business.

2. Courier delivery, at the [DOR/BSSB’s] **DORES**’ street address. The address is [225] **33** West State Street, Trenton, NJ 08608, [3rd] **5th** Floor. The file date is the date of delivery. The file time for a UCC filing delivered by this method is no later than the next close of business following the time of delivery (even though the UCC document may not yet have been accepted for filing and may be subsequently refused). A UCC filing delivered after regular business hours or on a day the [DOR/BSSB] **DORES** is not open for business, will have a filing time of the close of business on the next workday that the [DOR/BSSB] **DORES** is open for business.

3. Postal service delivery, to the [DOR/BSSB’s] **DORES**’ mailing address. The address is PO Box 303, Trenton, New Jersey [08625] **08646-0303**. The file date is the date of delivery. The file time for a UCC filing delivered by this method is no later than next close of business following the time of delivery (even though the UCC filing may not yet have been accepted for filing and may be subsequently refused). A UCC filing delivered after regular business hours or on a day the [DOR/BSSB] **DORES** is not open for business, will have a filing time of the close of business on the next workday that the [DOR/BSSB] **DORES** is open for business.

4. Electronic filing UCC filings may be submitted electronically via [the Internet] **systems the DORES makes available and administers**. The [DOR/BSSB] **DORES** will disseminate information about the [Internet] **electronic** filing services, including instructions and fee schedules **via the Internet**. The date for a UCC filing delivered by this method will coincide with the work day that the [DOR/BSSB] **DORES**’[s] computer system analyzes the relevant transmission and determines that all the required elements have been received in the proper format and that payment of the filing fee has been tendered. An electronic UCC filing delivered after regular business hours or on a day the [DOR/BSSB] **DORES** is not open for business, will have a filing date of the next business day and a filing time no later than the close of business on the next workday.

17:33-2.5 Search request delivery

UCC search requests may be delivered to the [DOR/BSSB] **DORES** through any of the means by which UCC filings may be delivered to the

[DOR/BSSB] **DORES**, as outlined in N.J.A.C. 17:33-2.4. Requirements concerning search requests are set forth in N.J.A.C. 17:33-8.

#### 17:33-2.6 Approved filing forms

(a) Forms for UCC filings that conform to the requirements of this procedure will be accepted by the [DOR/BSSB] **DORES**.

1.-3. (No change.)

#### 17:33-2.7 UCC search form

A form that clearly communicates the debtor names and/or filing numbers to be searched is acceptable. Form UCC11 is the preferred form for requesting search services. Upon written request, the [DOR/BSSB] **DORES** will provide an example of form UCC11. Also, a search request that is executed electronically as referenced in this subchapter is acceptable.

#### 17:33-2.9 Electronic filing requirement and exemption requests

(a) **Unless exempted pursuant to (b) below, all UCC filings and associated fee payments shall be submitted electronically. DORES will provide Internet-based services to support electronic filing and payment processing, and at its discretion may include alternate electronic filing and payment options.**

(b) **Submitters may obtain exemptions from the electronic filing requirement if they certify, in writing, that electronic filing poses undue hardships on them. To be exempted from the electronic filing requirement, submitters must mail a written exemption request to the Filing Office at the following address: NJ Division of Revenue, 33 West State Street, Trenton, NJ 08608, 5th floor, Attn: UCC Filing Officer.**

### SUBCHAPTER 3. EXPEDITED SERVICE

#### 17:33-3.1 Expedited service options and fee

(a) UCC [filings and] searches **and when permitted under N.J.A.C. 17:33-2.9(b), paper filings**, may be submitted as expedited, [over the counter] **over-the-counter** work requests.

1. Expedited service is available for **paper filings permitted under N.J.A.C. 17:33-2.9(b)** and search work requests delivered over-the-counter (personal and courier deliveries). Expedited service ensures 8.5-business hour processing.

2. (No change.)

3. Payment of the expedited and base fees ensures 8.5 business hour processing unless computer down time, network outages, or other factors beyond the control of the [DOR/BSSB] **DORES**, such as staffing, impact processing operations. If, due to such factors, the [DOR/BSSB] **DORES** is not able to meet the 8.5 processing time frame, the [DOR/BSSB] **DORES** will work on expedited requests on a first-in first-out basis, with priority over mail-in requests.

(b) The remitter may request expedited service by delivering [filings and] searches **and when permitted under N.J.A.C. 17:33-2.9(b), paper filings**, over the counter[,] with either a covering memorandum or request sheet indicating that expedited service is required, along with the correct fee amount, inclusive of the per-request expedited and base fees outlined in this chapter. The [DOR/BSSB] **DORES** uses a request form known as the Service Request and Control Receipt for over-the-counter and expedited service requests. Upon written request, the [DOR/BSSB] **DORES** will provide an example of the Service Request and Control Receipt.

### SUBCHAPTER 4. PAYMENT METHODS

#### 17:33-4.1 List of payment methods

(a) Filing fees and fees for public records services, including search and copy fees, may be paid by the following methods:

1. Cash. The [DOR/BSSB] **DORES** discourages cash payment unless made in person to the cashier at the [DOR/BSSB] **DORES**.

2. Checks. [Personal] **This includes electronic checks submitted to the DORES's Internet and other electronic services. For mail-in and over-the counter services requests, personal, cashier's, or certified checks made payable to the "Treasurer, State of New Jersey" are acceptable. This includes checks in an amount to be filled in by the [DOR/BSSB] DORES, with a "not to exceed amount" instruction.**

i. The [DOR/BSSB] **DORES** may from time to time disallow the use of specific banks and financial institutions. Restrictions in this area must be for cause and such shall be communicated to the affected drawer and the drawer's bank or financial institution.

ii. [DOR/BSSB] **DORES** may require a remitter to use cashier's checks or certified checks in place of personal checks. Restrictions in this area must be for cause and such shall be communicated to the affected party.

3. Prepaid account. A remitter may open an account for prepayment of [filing and search and copy] fees **for over-the-counter and mail-in UCC services** by submitting an application furnished by the [DOR/BSSB] **DORES**. The minimum balance for a pre-paid account is \$250.00. The [DOR/BSSB] **DORES** shall issue an account number to be used by a remitter who chooses to pay fees in advance. The [DOR/BSSB] **DORES** shall deduct fees from the remitter's prepaid account whenever the [DOR/BSSB] **DORES** either receives a work request from the remitter or processes work for the remitter. Upon written request to PO Box 455, Trenton, NJ [08625] **08646** (ATTN: UCC Depository Accounts), the [DOR/BSSB] **DORES** will provide an agreement form for establishing a prepaid account.

4. Credit card. The [DOR/BSSB] **DORES** accepts credit card payments from VISA, Master Card, Discover, and American Express. Remitters shall provide [the DOR/BSSB with] the card number, the expiration date of the card, the name of the approved card issuer, the name of the person or entity to whom the card is issued, and the billing address for the card. Payment will not be deemed tendered until the issuer or its agent has confirmed [to the DOR/BSSB] that payment will be forthcoming.

(b) Overpayment and underpayment policies are as follows:

1. The [DOR/BSSB] **DORES** shall refund an overpayment amount upon the written request of the remitter.

2. Upon receipt of a filing or other work request with an insufficient fee, the [DOR/BSSB] **DORES** shall send a refusal notice to the remitter or secured party with a written explanation. The remitter or secured party may resubmit the document or work request with an additional or new payment sufficient to cover the fee involved. Upon receipt of the sufficient fee, the [DOR/BSSB] **DORES** will perform the requested filing, or otherwise process the work request involved.

### SUBCHAPTER 5. ACCEPTANCE, [AND] REFUSAL, AND REMOVAL OF UCC FILINGS

#### 17:33-5.1 Policy regarding filing and filing office duty

(a) The duties and responsibilities of the [DOR/BSSB] **DORES** with respect to the administration of the UCC are mainly ministerial. However, the [DOR/BSSB] **DORES** has a duty to assist in protecting the integrity of the UCC filing system and the filing office may reject certain filings under N.J.S.A. 12A:9-516(b). N.J.S.A. 12A:9-516(c) provides that for purposes of N.J.S.A. 12A:9-516(b), a record does not provide information if the filing office is unable to read or decipher the information in the record. Therefore, as set forth in this subchapter, [DOR/BSSB] **DORES** will reject certain filings in which the filing office is unable to decipher information contained in the record.

(b) Provided that there is no reason for refusal under this subchapter, [DOR/BSSB] **DORES** will accept UCC filings, assign them file numbers and index them in [DOR/BSSB's] **DORES'** information management system.

#### 17:33-5.2 Reasons for refusal or removal of UCC filing

(a) The following reasons are the sole reasons for refusing to accept a UCC filing. As used [herein] **in this section**, the term "legible" is not limited to refer only to written expressions on paper. Legibility also encompasses electronic and other machine-readable transmissions and the requirement for such transmissions to be readily decipherable by the [DOR/BSSB's] **DORES'** information management system or staff.

1. Debtor name and address. An initial financing statement or an amendment that purports to add a debtor shall be refused if the filing fails to include a legible debtor name and address for a debtor. If the filing contains more than one debtor name or address and some names or addresses are missing or illegible, the [DOR/BSSB] **DORES** shall index the legible name and address pairings, and provide a notice to the remitter

containing the file number of the filing, identification of the debtor name(s) that was (were) indexed, and a statement that debtors with illegible or missing names or addresses were not indexed.

2. (No change.)

3. Secured party name and address. An initial financing statement, an amendment purporting to add a secured party of record, or an assignment, shall be refused if the filing fails to include a legible secured party (or assignee in the case of an assignment) name and address. If the filing contains more than one secured party (or assignee) name or address and some names or addresses are missing or illegible, the [DOR/BSSB] **DORES** shall refuse the UCC document.

4. (No change.)

5. Timeliness of continuation. A continuation shall be refused if it is not received during the six-month period concluding on the day upon which the related financing statement would lapse.

i. The first day on which a continuation may be filed is the date of the month corresponding to the date upon which the financing statement would lapse, six months preceding the month in which the financing statement would lapse. If there is no such corresponding date during the sixth month preceding the month in which the financing statement would lapse, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse, although filing by certain means may not be possible on such date if the [DOR/BSSB] **DORES** is not open on such date.

ii. (No change.)

6. (No change.)

7. Means of communication. UCC filings communicated to the [DOR/BSSB] **DORES** by a means of communication not authorized by the [DOR/BSSB] **DORES** for the communication of UCC filings will be refused.

8. (No change.)

**(b) In the event that DORES determines that a filing contains confusing, conflicting, or contradictory matter that gives rise to uncertainty, ambiguity, or lack of clarity as to information in the record, or otherwise contains matter that is defective pursuant to N.J.A.C. 17:33-5.2(a), it may remove the filing from the DORES UCC Information Management and Image Storage systems.**

#### 17:33-5.5 Reasons not warranting refusal

(a) The sole reasons for the [DOR/BSSB] **DORES**'[s] refusal to accept a filing are enumerated in N.J.A.C. 17:33-5.1. The following are examples of defects that do not constitute reasons for refusal to accept a filing. They are not a comprehensive enumeration of defects outside the scope of permitted reasons for refusal to accept a UCC filing.

1.-3. (No change.)

### SUBCHAPTER 6. PROCESSING TIME LIMITS AND NOTICES AND ACKNOWLEDGEMENTS

#### 17:33-6.1 Time limits

The [DOR/BSSB] **DORES** will endeavor to determine whether any of the criteria under N.J.A.C. 17:33-5.2 to refuse acceptance of a UCC filing exist not later than the second business day after the date the filing would have been filed had it been accepted for filing and shall index a UCC filing not so refused within the same time period. This time limit will apply in all cases unless computer down time, network outages, or other factors, such as staffing, which are beyond the control of the [DOR/BSSB] **DORES**, impact processing operations. If, due to such factors, the [DOR/BSSB] **DORES** is not able to meet the time limit, the [DOR/BSSB] **DORES** will work on filings on a first-in first-out basis, with first priority given to expedited over the counter requests.

#### 17:33-6.2 Procedure upon refusal or removal

(a) If the [DOR/BSSB] **DORES** finds reasons for refusal under N.J.A.C. 17:33-5.2, the [DOR/BSSB] **DORES** shall return the filing, if written, to the remitter or secured party. The [DOR/BSSB] **DORES** shall also send a notice that contains the date and time the filing would have been accepted had it not been refused. In all cases, the date and time of filing will be the delivery date and time of the initial submission. The notice shall also include a brief description of the reason(s) for refusal. The notice shall be sent to a secured party or the remitter via first class

mail or if requested by the remitter, left to be picked up at its office location. [DOR/BSSB] **DORES** will also return acknowledgments and notices via overnight courier, provided the remitter supplies the required envelopes with the return address and prepaid waybills showing the remitter's account with the courier. The notice shall also advise the secured party or remitter that if he or she disagrees with the rejection and believes the filing was wrongfully refused, the secured party or remitter may submit a request for review and determination to the [DOR/BSSB]'s **DORES**' UCC Determination Unit within 45 days of the date of the rejection notice. The requirements for submitting a request for review and determination are outlined in N.J.A.C. 17:33-6.4.

**(b) If the DORES removes a filing pursuant to N.J.A.C. 17:33-5.2(b), it shall notify the last known submitter or secured party of the removal action via a letter sent by first class mail. The determination letter shall:**

**1. Indicate DORES has removed the filing;**

**2. Describe the reasons for the removal action; and**

**3. Advise the secured party or remitter of the procedure and time line, as set forth at N.J.A.C. 17:33-6.4, for petitioning the Filing Office for a final review and determination regarding the removal action.**

#### 17:33-6.3 Filing resubmission

To accomplish the filing after refusal or removal, the secured party or remitter must address all deficiencies noted and resubmit the filing to the [DOR/BSSB] **DORES**, along with the rejection or removal notice. Upon receipt of the resubmission, the [DOR/BSSB] **DORES** will complete the filing, if the filing no longer contains information [which] that would subject the record to rejection or removal under N.J.A.C. 17:33-5.2, and mark the filing date and time as of the date and time of initial delivery to the [DOR/BSSB] **DORES**. If there are still reasons to refuse or remove the resubmitted filing pursuant to N.J.A.C. 17:33-5.2, the [DOR/BSSB] **DORES** will issue another rejection notice to the secured party or remitter.

#### 17:33-6.4 Request for review and determination of refused or removed filing

To dispute the rejection or removal of a filing and to request a review and determination by [DOR/BSSB] **DORES**, the secured party or remitter must, within 45 days of the date of the rejection or removal notice, submit a written statement explaining why the secured party or remitter believes the UCC filing was wrongfully refused or removed; submit the original rejected or removed UCC filing; and submit the rejection or removal notice. The request for review and determination must be addressed to the [DOR/BSSB]'s **DORES**' UCC Determination Unit, PO Box 303, Trenton, New Jersey [08625]08646-0303. Upon receipt of the request for review and determination, the [DOR/BSSB] **DORES** will review the filing and the additional submissions and notify the secured party or remitter of the agency's final determination regarding the filing by issuing a final determination letter. This letter notifies the secured party or remitter that the [DOR/BSSB]'s **DORES**' decision is a final determination and if the secured party or remitter disagrees with the determination, he or she may appeal to the Superior Court of New Jersey, Appellate Division, pursuant to New Jersey Court Rule 2:2-3(a)(2). Further, pursuant to New Jersey Court Rule 2:4-1, the secured party or remitter has 45 days from the date of the final determination letter to file such an appeal.

#### 17:33-6.5 Acknowledgment

For each accepted UCC filing, the [DOR/BSSB] **DORES** will send to the filer an acknowledgment attesting to the filing, showing the file number assigned to it and the date and time of filing. In the case of electronic UCC filings, the [DOR/BSSB] **DORES** shall communicate to the filer or remitter the information in the filed document, the file number, and the date and time of filing.

#### 17:33-6.6 Other notices

Nothing in [these procedures] **this chapter** prevents [DOR/BSSB] **DORES** from communicating to a filer or a remitter that the [DOR/BSSB] **DORES** noticed apparent potential defects in a UCC filing, whether or not it was filed or refused. However, the [DOR/BSSB] **DORES** is under no obligation to do so and may not, in fact, have the

resources to do so or to identify such defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the [DOR/BSSB] **DORES** bears no responsibility for such effectiveness.

#### 17:33-6.7 Refusal and removal errors

If a secured party or a remitter demonstrates, to the satisfaction of the Filing Officer, that a refused or removed UCC filing should not have been refused or removed, the [DOR/BSSB] **DORES** will accept the filing. The filing date and time shall be the [time and date] **date and time** of initial delivery to the [DOR/BSSB] **DORES**. The [DOR/BSSB] **DORES** will also file a statement (and such demonstration of error shall constitute the secured party's authorization to do so) that states that the effective date and time of filing is the date and time the UCC document was initially delivered, and sets forth such date and time.

### SUBCHAPTER 7. UCC INFORMATION MANAGEMENT SYSTEM

#### 17:33-7.1 Policy statement

The [DOR/BSSB] **DORES** uses an information management system to store, index, and retrieve information relating to financing statements. [DOR/BSSB] **DORES** will actively seek to apply information management technology to facilitate the administration of the UCC. The information management system utilized as of February 18, 2003, includes an index of the names of debtors named on non-lapsed financing statements and on lapsed statements for one year following lapse. The system also includes electronic image storage facilities for the retention and reproduction of accepted UCC filings. The procedures in this subchapter describe the UCC information management system.

#### 17:33-7.2 Primary data elements

(a) The primary data elements used in the UCC information management system are the following:

1. Identification numbers. UCC filings are identified as set forth below.

i. (No change.)

ii. A UCC filing other than an initial financing statement is identified by the unique file number assigned by the [DOR/BSSB] **DORES**. In the information management system, a record of a UCC filing other than initial financing statement is linked with its associated initial financing statement via the file number.

2.-7. (No change.)

8. Names of debtors who are individuals. For the purpose of this procedure, "individual" means a human being, or a decedent in the case of a debtor that is such decedent's estate. This procedure applies to the name of a debtor or a secured party on a UCC filing who is an individual.

i. Individual names. The names of individuals are stored. From July 1, 2001 forward, space is provided for first, middle (given), and last names (surnames or family names) of individuals. A filer should place the name of a debtor with a single name (for example, "Cher") in the last name field of the filing form. The [DOR/BSSB] **DORES** assumes no responsibility for the accurate designation of the components of a name, but will accurately enter the data in accordance with the filer's designations.

ii.-iii. (No change.)

iv. Truncation—individual names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC filings, a name that exceeds the fixed length is entered as presented to the [DOR/BSSB] **DORES** up to the maximum length of the data entry field, which is 100 characters, including spaces.

9. Names of debtors that are organizations. This procedure applies to the name of an organization that is a debtor or a secured party on a UCC filing.

i. (No change.)

ii. Truncation—organization names. The organization name field in the UCC database is fixed in length. The maximum length of the data field is 100 characters, including spaces. Although filers should continue to provide full names on their UCC filings, a name that exceeds the fixed length is entered as presented to the [DOR/BSSB] **DORES** up to the maximum length of the data field.

#### 17:33-7.11 Procedure upon lapse

If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date, but no action is then taken by the [DOR/BSSB] **DORES**. On the first anniversary of such lapse date, the financing statement will no longer be made available to a searcher.

#### 17:33-7.12 Image storage

(a) (No change.)

(b) The [DOR/BSSB] **DORES** will maintain all statements and filings in retrievable and reproducible form for up to one year following their lapse date. Thereafter, they will be stored offline (archived) and disposed of in accordance with statutory requirements set forth in N.J.S.A. 47:1-1 et seq. Both data and electronic image storage technologies are used to store and archive UCC data and filings.

#### 17:33-7.13 Errors of the [DOR/BSSB] **DORES**

[The DOR/BSSB] **DORES** may correct the errors of [DOR/BSSB] **DORES** personnel in the UCC information management system at any time. If the correction is made after the [DOR/BSSB] **DORES** has issued a certification date that includes the filing date of the corrected statement, the [DOR/BSSB] **DORES** will place a record relating to the relevant initial financing statement in the UCC information management system. The record will state the date of the correction and explain the nature of the corrective action taken. The record will be preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

#### 17:33-7.14 Errors other than [DOR/BSSB] **DORES** errors

An error by a filer is the responsibility of such filer. It can be corrected by filing an amendment or it can be disclosed by a correction statement.

### SUBCHAPTER 8. SEARCH REQUESTS AND REPORTS

#### 17:33-8.1 Policy statement

[The DOR/BSSB] **DORES** shall maintain, for public inspection, a searchable index for all records of UCC filings and provide for the retrieval of a record by the name of the debtor, by the file number of the initial financing statement to which the record relates, and by a combination of debtor name and address (city). Pursuant to N.J.A.C. 17:33-7.11, on the first anniversary of the lapse date of any financing statement in the UCC information management and image storage systems, records pertaining to such lapsed financing statement will no longer be available to a searcher.

#### 17:33-8.2 Written search requests

(a) Written search requests shall contain the following information:

1. Name or number to be searched. A search request shall set forth the full correct name of a debtor or the name variant desired to be searched, or in the case of photocopy only request, the file number involved. For name searches, the full name of an individual may consist of a first name, a middle name or initial, and a last name. A search request may also be submitted with no middle name or initial or as a single name. If only a single name is presented (for example, "Cher"), it will be treated as a last name. The full name of an organization shall consist of the name of the organization as stated on the articles of incorporation or other organic documents in the state or country of organization or the name variant desired to be searched. Optionally, the search request may contain a debtor address (city), in addition to the debtor name. A search request will be processed using the name and address (if applicable) as submitted, and the [DOR/BSSB]'s **DORES**' standard search logic;

2.-4. (No change.)

#### 17:33-8.3 On-line search

Certified UCC debtor name searches may be executed online via the Internet. The [DOR/BSSB] **DORES** will disseminate information about the Internet search service, including instructions and fee schedules.

#### 17:33-8.4 Procedures applied to all name search requests

(a) Search results are created by applying standardized search logic to the debtor name presented to the [DOR/BSSB] **DORES** by the person requesting the search. Human judgment is minimized in determining the results of the debtor name search. Optional searches on debtor address

(city) are based on exact matches of the address entered. The following procedures are applied to conduct debtor name searches:

1.-7. (No change.)

8. To insure the standard search logic is responsive during the transition to the revised UCC debtor name indexing procedures, in addition to the procedures above, the [DOR/BSSB] **DORES** will apply the following transitional search logic procedures to each debtor name search. The transitional procedures will have the effect of broadening search results. However, as the revised UCC debtor-indexing scheme is applied, the [DOR/BSSB] **DORES** will modify or eliminate the transitional procedures. The [DOR/BSSB] **DORES** will provide notice of these changes as they occur.

i.-iii. (No change.)

17:33-8.5 Search responses

(a) Reports created in response to a search request will include the following:

1. Filing officer designation and certification. This includes the official identification of the [DOR/BSSB] **DORES** as the producer of the report and the filing officer's certification of the search results;

2.-7. (No change.)

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