

50 N.J.R. 1374(a)

VOLUME 50, ISSUE 11, JUNE 4, 2018

RULE ADOPTIONS

Reporter

50 N.J.R. 1374(a)

NJ - New Jersey Register > 2018 > JUNE > JUNE 4, 2018 > RULE ADOPTIONS > OTHER AGENCIES -- NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Agency

OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Administrative Code Citation

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

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

Text

Administrative Rules

Authority Assistance Programs

Proposed: November 20, 2017, at 49 N.J.R. 3576(a).

Adopted: May 8, 2018, by the New Jersey Economic Development Authority, Tim Sullivan, Chief Executive Officer.

Filed: May 8, 2018, as R.2018 d.122, **without change**.

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

Effective Date: May 8, 2018, Readoption;

June 4, 2018, Amendments.

Expiration Date: May 8, 2025.

Summary of Public Comment and Agency Response:

Steven D. Weinstein, Executive Vice President, Policy & External Relationships/Partnerships, Rowan University:

COMMENT: The commenter noted that the campus map reflected on the Authority's website is not inclusive of its Glassboro West Campus. The commenter provided a copy of a map that the commenter asserts is Rowan University's official campus map.

RESPONSE: The comment, which addresses the Authority's website, is not directed at the proposed amendments. The Authority will review its website and the map provided to determine if it is "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."

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards.

Regulations

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 19:30 and 19:31.

Full text of the adopted amendments follows:

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 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 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, 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 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 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.)

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 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 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 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 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 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 the business are created or retained; or
 - ii. At which more than 1,000 full-time employees of 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 the business are created or retained; or
 - ii. At which more than 1,000 full-time employees of 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 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 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 the business are created or retained; or
 - ii. At which more than 1,000 full-time employees of 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 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. 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, 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 exceeds the minimum capital investment required for eligibility pursuant to subsection 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;

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 to implement the New Jersey Angel Investor Tax Credit Act, P.L. 2013, c. 14 (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 optic-electrical 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 not be limited to, smartphones, electronic books and tablets, 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 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 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);

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

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.

(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 (f) below is not applicable to a credit claimed under the New Jersey Gross Income Tax Act.

(e) (No change in text.)

(f) Except as provided in (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.

(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, 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.)