

Department of the Treasury, pursuant to N.J.S.A. 52:32-44. For State-funded projects, contractors must be registered at the time of bid; for Federally funded projects, contractors must be registered prior to executing a contract.

The Department incurs direct and indirect costs for personnel and equipment needed for the administration of the contracting process, such as the production of allotted specifications, plans, and special provisions.

Federal Standards Statement

A Federal standards analysis pursuant to Executive Order No. 27 (1994) and P.L. 1995, c. 65 is not required because the rules proposed for re-adoption come within the authority of State statute only and are not subject to Federal requirements or standards.

Jobs Impact

The rules proposed for re-adoption have not resulted, and will not result, in the generation or loss of jobs. The rules are intended to set forth the classification process, bidding procedure, contractual requirements, contractor eligibility, and other related information to prospective contractors interested in working on Department construction projects. These rules neither establish nor fund construction projects or services.

Agriculture Industry Impact

The rules proposed for re-adoption will have no impact on the agriculture industry in New Jersey. The rules are not intended to regulate farming, crop, or animal production.

Regulatory Flexibility Analysis

The rules proposed for re-adoption require all businesses, including small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., to prepare a questionnaire as part of the contractor classification process. The rules use performance standards as a standardized means of evaluating prospective bidders and assigning project ratings. In addition to the classification process, N.J.A.C. 16:44 provides the criteria the Department will use when advertising projects, outlines the contract award process, and provides the procedures necessary for efficient and competitive bidding and to uphold the accountability of contractors conducting construction service business with the Department. The Department has determined that these rules are the minimum necessary to accomplish these goals, and, therefore, has made no provision for lesser or differing reporting, recordkeeping, or compliance standards for small businesses.

Housing Affordability Impact Analysis

The rules proposed for re-adoption will have no impact on the affordability of housing in New Jersey. The rules outline the contractor classification process and provide information about the bidding procedure and contractual requirements for Department construction projects. The Department believes that it is extremely unlikely that the rules would bring about a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The rules proposed for re-adoption will have no impact on smart growth. The Department believes that it is extremely unlikely that the rules proposed for re-adoption would bring about a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules concern the contractor classification process and bidding procedure for Department construction projects.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:44.

TREASURY—GENERAL

(a)

OFFICE OF THE STATE TREASURER Public Employee Charitable Fund-Raising Campaign

Proposed New Rules: N.J.A.C. 17:28

Authorized By: Ford Scudder, State Treasurer.

Authority: N.J.S.A. 52:14-15.9c13 and 52:18A-30.

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

Proposal Number: PRN 2017-111.

Submit written comments by September 1, 2017, to:

Michael Tyger
Director of Administration
PO Box 211
Trenton, New Jersey 08625-0211
or administration_email@treas.nj.gov

The agency proposal follows:

Summary

The proposed new rules are designed to merge two expired chapters, N.J.A.C. 17:28, which provided rules for the State employees campaign, and N.J.A.C. 17:29, which provided rules for Local Government campaigns. By merging the two chapters, the Office of the State Treasurer (OST) believes the rules are simplified, consistent with the Governor's Red Tape Review Commission's goals. Where there are differences between the State and Local campaigns, they are specified in the proposed new rules. N.J.A.C. 17:28, although expired, is still codified in the New Jersey Administrative Code, and, therefore, for purposes of this rulemaking, are treated as expired rules proposed herein as new rules with amendments. A description of the expired rules proposed herein as new rules and the proposed amendments pertaining to local campaigns are as follows:

At N.J.A.C. 17:28-1.1, Purpose, minor language additions were made to include "Local Units of State Government" along with State employees as the subject of the chapter.

At N.J.A.C. 17:28-1.2, Scope, new subsection (a) is proposed to make it clear that the Public Employee Charitable Fund-raising Campaign is the only authorized solicitation in public workplaces. The expired rule is codified as subsection (b) and new subsection (c) is proposed to cover allowable deductions for local units of government.

At N.J.A.C. 17:28-1.3, Definitions, definitions applicable to local government are added as follows: "appropriate disbursing officer," "local unit of government," and "Local Unit of Government Charitable fund-raising campaign." The definition of "compensation" is proposed for amendment to include the appropriate disbursing officer (as that term is now defined in the chapter). The definition of "Campaign Steering Committee" is proposed for amendment to make a technical change.

At N.J.A.C. 17:28-1.4, Forms, amendments applicable to local governments are proposed.

At N.J.A.C. 17:28-1.5, General provisions, amendments applicable to local governments are proposed.

At N.J.A.C. 17:28-2.1, General provisions, is proposed for amendment to change the section heading to "steering committee" and to add language applicable to local government. In subsection (c), the specific words "at the call of the State Treasurer" are proposed for deletion, to reflect that the Steering Committee should meet quarterly and they may (and should) call such a meeting without intervention from the State Treasurer.

At N.J.A.C. 17:28-2.2, Membership, new subsection (b) is added to set forth the membership applicable to each local government Campaign Steering Committee.

At N.J.A.C. 17:28-2.3, Term of membership, amendments applicable to local governments are proposed.

At N.J.A.C. 17:28-2.4, Duties of a Campaign Steering Committee, amendments to reflect application to State or local campaigns are proposed.

N.J.A.C. 17:28-2.5, Eligibility of charitable fund-raising organizations, is proposed without change.

At N.J.A.C. 17:28-2.6, Membership procedure Campaign Steering Committee, subsection (a) is replaced to emphasize that “Any charitable fund-raising organization that is qualified to participate as a recipient in the Charitable Campaign may also participate on the Campaign Steering Committee.” The language related to the State Treasurer publishing in the New Jersey Register a public notice of application for charitable fund-raising organizations wishing to participate on the Campaign Steering Committee at least 30 days prior to the application due date is deleted, as this is duplicative of language at N.J.A.C. 17:28-2.8. At subsection (b), an amendment is proposed related to local campaigns and their Steering Committee.

At N.J.A.C. 17:28-2.7, Appeal procedure, amendments applicable to local governments are proposed. In addition, at subsection (b), the responsibility of convening a special appeal panel is shifted from the State Treasurer to the Campaign Steering Committee to better reflect actual practice.

At N.J.A.C. 17:28-2.8, Application form for charitable fund-raising organizations, the heading is proposed for amendment to add that the applications are submitted electronically. Subsection (a) is proposed for amendment to indicate that the preparation of the application form is shifted from the State Treasurer to the Campaign Manager to reflect actual practice and to indicate how advertising shall occur. In subsection (b), language is proposed to clarify that applicants do not just submit, but they certify, the specified requirements. Other changes in this section update the required forms to reflect more specific information and more realistic and current requirements. Paragraph (b)7 is proposed for amendment to delete the requirement that a copy of the independent auditor’s report be submitted, instead only requiring a certification that the organization was auditing (with certain requirements). At subsection (d), language is proposed to clarify that applications may be downloaded from the New Jersey Employee Charitable Campaign (NJECC) website. New subsection (f) is proposed to simplify applications for local campaigns for charities already found eligible for the State Campaign. This should reduce paperwork requirements.

At N.J.A.C. 17:28-3.1, Eligibility, a technical change is proposed, changing “shall” to “must.”

At N.J.A.C. 17:28-3.2, Application procedure for unaffiliated agencies, the heading is proposed for amendment to add that the applications are submitted electronically. At paragraph (b)1, an amendment is proposed to reflect past practice that the Campaign Manager, rather than the State Treasurer, shall advertise applications, and allows for applications to be submitted electronically. The language also modifies the advertising process to be via the Internet or other contact mechanisms and proposes to no longer require publication of a public notice in the New Jersey Register.

At N.J.A.C. 17:28-3.3, Application form; unaffiliated charitable agencies, amendments are proposed to mirror the changes proposed to the application form and process at N.J.A.C. 17:28-2.8, discussed above.

At N.J.A.C. 17:28-4.1, General provisions, amendments applicable to local governments are proposed.

At N.J.A.C. 17:28-4.2, Campaign period, amendments applicable to local governments are proposed, to permit the solicitation period to run through December 31, rather than December 10, and to remove the requirement that the solicitation be for a 10-week continuous period.

At N.J.A.C. 17:28-4.3, Campaign literature, amendments applicable to local governments are proposed. In addition, new subsection (c) is proposed to introduce the concept of a “giving website” to facilitate employee donations.

N.J.A.C. 17:28-4.4, Distribution of campaign literature, is proposed without change.

At N.J.A.C. 17:28-4.5, Form of contribution, amendments are proposed to include check, electronic check, and credit card, in addition to cash, as giving options, and new subsection (b) adds the “giving website” option, in addition to pledge cards.

N.J.A.C. 17:28-4.6, Designated contribution, is proposed with technical changes.

At N.J.A.C. 17:28-4.7, Distribution of contributions, subsection (b) is proposed for amendment to clarify that unaffiliated charitable agencies, as well as charitable fund-raising organizations, share in proportional distributions. New subsection (d) is proposed to address the circumstance of an agency participating in the campaign that ceases operations before all payouts have been made.

At N.J.A.C. 17:28-4.8, Selection and use of campaign volunteers, a technical amendment is proposed to reflect that the rules apply to all employees, not just State employees.

At N.J.A.C. 17:28-4.9, Campaign education, technical amendments and changes to reference applicability to local campaigns are proposed.

N.J.A.C. 17:28-5.1, General provisions is proposed without change.

At N.J.A.C. 17:28-5.2, Payroll deductions, an amendment to subsection (a) is proposed to add a reference to a report of employees using the giving website. At subsection (d), an amendment is proposed to update the actual process to reflect that deductions for charitable contributions can be cancelled “by submitting written notice” as opposed to a completed cancellation card, because such cards are no longer used.

N.J.A.C. 17:28-5.3, Campaign accounting, is proposed without change.

Proposed new N.J.A.C. 17:28-5.4, Local government provisions, adds language specific to local government campaigns.

N.J.A.C. 17:28-6.1, General provisions, is proposed without change.

At N.J.A.C. 17:28-6.2, Procedure for boards, commissions, and authorities, an amendment to subsection (f) is proposed to clarify that the statement for the Campaign Manager will be compiled from completed pledge cards and a report from the giving website. The proposed amendment to subsection (h) updates the actual process to reflect that deductions for charitable contributions can be cancelled “by submitting written notice” as opposed to a completed cancellation card, because such cards are no longer used.

At N.J.A.C. 17:28-7.1, Costs of operating payroll deduction system, new subsection (c) is proposed to address local government campaigns.

At N.J.A.C. 17:28-7.2, Budget for other campaign costs, subsection (b) is proposed for amendment to delete the fixed 10 percent cap on the budget, and instead refer to the “statutorily designated percentage.” While the current percentage is 10 percent, this could change if the statute is ever modified. By adjusting this language now, future rule changes would not be required if the percentage is changed in statute.

At N.J.A.C. 17:28-7.3, Payment of other Campaign costs, subsections (b) and (d) are proposed for amendments to coincide with the amendments at N.J.A.C. 17:28-7.2.

The State Treasurer has provided a 60-day comment period for this notice of proposal. Therefore, this notice is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The expired rules proposed herein as new rules with amendments affect all charitable organizations seeking to participate in the Campaign or become a member of the Campaign Steering Committee, the operational unit of the Campaign. They also have a positive impact on public employees by defining a clear path for charitable donations with the added option of automatic payroll deductions. Finally, the expired rules proposed herein as new rules with amendments facilitate social justice by providing funding to many charitable organizations, which provide beneficial services to the most needy of the citizens of this State.

Economic Impact

The expired rules proposed herein as new rules with amendments may have a positive economic impact of stimulating increased confidence and contributions by State and local employees to the charities participating in the Campaign. Charities applying to participate in the Campaign or the Campaign Steering Committee are not expected to incur administrative or other costs resulting from expired rules proposed herein as new rules with amendments that they would not otherwise incur in complying with charitable registration requirements and completing an application to participate in the Campaign or Campaign Steering Committee. The shift to more electronic means of applying to participate in the Campaign or for employees to make

contributions is hoped to have a positive economic impact in reducing costs of printing, mailing, etc.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the expired rules proposed herein as new rules with amendments.

Jobs Impact

The State Treasurer believes that the expired rules proposed herein as new rules with amendments will neither increase nor decrease the number of jobs in the State.

Agriculture Industry Impact

The expired rules proposed herein as new rules with amendments will not have any impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

As defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the term “small business” may apply to some charitable agencies wishing to participate in the Campaign. However, the expired rules proposed herein as new rules with amendments impose no recordkeeping, reporting, or compliance requirements on such entities. The only requirements imposed on such agencies related to the application process, are documentation, which should be maintained by the agency in the normal course of operation. Besides the minor administrative costs of application, the State Treasurer anticipates no cost need be expended, or professional services engaged, by small businesses to comply with the expired rules proposed herein as new rules with amendments. Although the expired rules proposed herein as new rules with amendments be in full compliance with the Charitable Registration and Investigation Act in order to protect the public from fraud and deceptive practices by making available information concerning charitable fund-raising activities of charitable organizations. Therefore, no lesser or differing standards are possible for small businesses.

Housing Affordability Impact Analysis

The expired rules proposed herein as new rules with amendments will have no impact on any aspect of housing, including affordability of housing or the average costs of housing as the expired rules proposed herein as new rules with amendments pertain to charitable giving by State and local employees.

Smart Growth Developmental Impact Analysis

The State Treasurer does not believe that the expired rules proposed herein as new rules with amendments will have an impact on smart growth and would not 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 the State and local Charitable Giving Campaign.

Full text of the expired rules proposed herein as new rules may be found in the New Jersey Administrative Code at N.J.A.C. 17:28.

Full text of the proposed amendments to the expired rules proposed herein as new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

17:28-1.1 Purpose

(a) The purpose of the rules in this chapter is to:

1. Provide a convenient channel through which State **and local units of government** employees may support the efforts of charitable fund-raising organizations and charitable agencies, while minimizing disruption to the workplace and cost to the taxpayers that fund-raising may entail;

2. Establish a system for the planning and conduct of charitable fund-raising campaigns among State **and local units of government** employees in order to ensure that the funds will be collected and distributed in a reasonable manner; and

3. (No change.)

17:28-1.2 Scope

(a) The Public Employee Charitable Fund-raising Campaign is the only authorized fund-raising solicitation of employees in the public workplace on behalf of charitable organizations.

(b) No deductions shall be made from compensation payable to State employees by the State Treasurer or his or her agents, or from compensation payable to employees of any instrumentality of the State, not payable by the State Treasurer, for the payment of contributions to any charitable fund-raising organization or charitable agency pursuant to N.J.S.A. 52:14-15.9c1, unless such organization or agency complies with the requirements of this chapter.

(c) No deductions shall be made from compensation payable by disbursing officers of local units of government or their agents, or from compensation payable to employees of any local unit of government, for the payment of contributions to any charitable fund-raising organization or charitable agency pursuant to N.J.S.A. 52:14-15.9c1, unless such organization or agency complies with the requirements of this chapter.

17:28-1.3 Definitions

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

...
“Appropriate disbursing officer” means the individual or individuals who is responsible for employee payroll of that unit of government.

...
“Campaign Steering Committee” means either the operational unit of the State or local unit of government Campaign, as further described in N.J.A.C. 17:28-2.

...
“Charitable fund-raising organization” means a volunteer, not-for-profit organization, which solicits, receives, and distributes voluntary charitable contributions. It may be either a federation or a fund.

“Compensation” means compensation payable by the State Treasurer to a State employee or payable by the appropriate disbursing officer to an employee of a local unit of government.

...
“Health, welfare, or human care services” means services, provided directly or indirectly, meeting the human needs of health, welfare, or care, including, but not limited to, the relief of human suffering and poverty, public education and welfare, education, civil and human rights, and environmental restoration and conservation.

“Local unit of government” means any county, municipality, or board of education, or instrumentality thereof.

“Local unit of government charitable fund-raising campaign” means an annual payroll deduction campaign among employees of a local unit of government, organized pursuant to the Public Employee Charitable Fund-Raising Act, N.J.S.A. 52:14-15.9c1, to receive and distribute the voluntary charitable contributions of employees of local units of government.

...
“State employee” means any person employed by, or holding a public office, or position of, the State or any board, body, agency, or commission thereof, whose compensation is payable by the State Treasurer.

...

17:28-1.4 Forms

In order to carry out its functions, the Department of **the Treasury or local unit of government** shall use such forms as it shall deem appropriate. Such forms may be amended, supplemented, and/or replaced at the discretion of the State Treasurer **or local unit of government.**

17:28-1.5 General provisions

(a) No charitable agency or charitable fund-raising organization shall engage in any direct solicitation activity at the work site of State and local unit employees, except as a participant in [a] the Campaign and in accordance with this chapter.

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

(d) No State or local unit of government official or employee shall assume the duties and responsibilities of the Campaign Steering Committee, the Campaign Steering Committee Chair, or the Campaign Manager. In the event of the inability of the Committee to function, or a continuing vacancy in the position of Chair or Manager, the State Treasurer or local unit of government reserves the right to cancel the Campaign. The State Treasurer and each local unit of government shall designate [a State] an employee coordinator to assist the Campaign Steering Committee.

(e) The limitations on the solicitation of funds and distribution of printed communications are as follows:

1. No charitable agency, charitable fund-raising organization, or any other entity, shall be permitted to solicit funds from State or local unit of government employees through the use of a circular, notice, advertisement, solicitation, inquiry, or other communication of any type, purpose, or design distributed with, or at the same time as, an envelope or other container having within it a [State] payroll check or other [State] official communication; and

2. The distribution of any type of printed communication with any envelope or other container having within it a [State] payroll check or other [State] official communication shall be limited to: the distribution of announcements by the Governor, [or] the head of a principal department in the Executive Branch of State Government for governmental purposes and not in conjunction with any charitable agency or charitable fund-raising organization, as approved by the State Treasurer, and to the distribution of printed materials related to the charitable fund-raising campaign, as approved by the Campaign Steering Committee or the head of a local unit of government.

SUBCHAPTER 2. CHARITABLE FUND-RAISING CAMPAIGN STEERING COMMITTEE

17:28-2.1 [General provisions] Steering Committee

(a) The Campaign Steering Committee is the operational unit of the State and local unit of government Campaign. Its actions on behalf of the member charitable fund-raising organizations shall be binding; it may assign functions, organize subgroups, and enlist others in its activities, as it deems necessary in order to carry out its responsibilities.

(b) (No change.)

(c) The Campaign Steering Committee shall convene at least quarterly, with the first meeting of the year occurring on or before March 1[, at the call of the State Treasurer].

(d)-(e) (No change.)

17:28-2.2 Membership

(a) The State Campaign Steering Committee shall consist of one representative of each of the charitable fund-raising organizations eligible to participate in the State Campaign pursuant to N.J.S.A. 52:14-15.9c7a through f, one representative of a State public employee labor union to be chosen by the presidents of the various labor unions [which] that represent State employees and one representative of the executive branch of State Government to be appointed by the Governor.

(b) Each local Campaign Steering Committee shall consist of one representative of each of the charitable fund-raising organizations eligible to participate in the local unit of government Campaign pursuant to N.J.S.A. 52:14-15.9c7a through e and g, and one representative of each local unit of government to be appointed by the Chief Executive Officer of the unit. Each local Campaign Steering Committee may also include one representative of the employees and one representative of the management of the local unit of government, as may be designated by the governing body of the unit.

17:28-2.3 Term of membership

The term of membership for each member of [the] a State or local Campaign Steering Committee shall be for one year. The representative of a State or local employee labor union and the executive branch of State Government shall be eligible for reappointment by the presidents of the various labor unions representing State employees and the Governor, respectively. A charitable fund-raising organization shall be

eligible to renew its membership, annually, contingent upon the successful completion of the application process.

17:28-2.4 Duties of a State or Local Campaign Steering Committee

(a) The Campaign Steering Committee shall:

1. (No change.)

2. Recommend a campaign Chair to be appointed by the Governor or head of the local unit of government;

3.-5. (No change.)

17:28-2.6 Membership procedure Campaign Steering Committee

[(a) The State Treasurer shall publish in the New Jersey Register a public notice of application for charitable fund-raising organizations wishing to participate on the State Campaign Steering Committee at least 30 days prior to the application due date. These applications are due by the close of business on the date and at the location specified in the notice.]

(a) Any charitable fund-raising organization that is qualified to participate as a recipient in the Charitable Campaign (see N.J.A.C. 17:28-2.5 for eligibility factors, and N.J.A.C. 17:28-2.8 for application procedures) may also participate on a Campaign Steering Committee.

(b) Within 30 days of the close of the application due date, the current Campaign Steering Committee, through the State employee coordinator or local unit of government Campaign chair, shall notify each applicant of its eligibility or ineligibility for the Campaign Steering Committee. In cases of ineligibility, the notice shall set forth the reason for such ineligibility.

17:28-2.7 Appeal procedure

(a) Any charitable fund-raising organization receiving a notice of ineligibility shall have 15 days from receipt of such notice to file an appeal and to submit to the State Treasurer or local unit of government campaign chair any additional information.

(b) Within 45 days of receipt of any additional information, the [State Treasurer] Campaign Steering Committee shall convene a special appeal panel consisting of the Chair of the Campaign Steering Committee, and, to the extent practicable, representatives of other groups composing the Campaign Steering Committee, such as the representative of the various labor unions representing State employees and the representative of the executive branch of State government, to review the charitable fund-raising organization's appeal and any additional documentation or information submitted by the charitable fund-raising organization.

(c) The special appeal panel shall conduct its review in a timely manner and shall make its [decision] recommendation in writing to the State Treasurer or local unit of government Campaign chair regarding the eligibility of the charitable fund-raising organization to participate on the Campaign Steering Committee. [The State Treasurer shall in a timely manner adopt, modify or reject the decision of the panel.] The decision of the State [Treasurer's action] Treasurer or local unit of government shall be final.

17:28-2.8 Application form for charitable fund-raising organizations to be submitted electronically

(a) The [State Treasurer] Campaign Manager shall prepare an application form for charitable fund-raising organizations wishing to participate on the [Campaign] Campaign/Campaign Steering Committee and shall advertise, using the Internet or other contact mechanisms, to notify that applications are being accepted for charitable agencies wishing to participate in the Campaign at least 30 days prior to the application due date.

(b) In addition to the completed application form, [the] all applicants must certify [submit]:

1. (No change.)

2. With respect to the requirements set forth in N.J.S.A. 52:14-15.9e, [annual financial reports] CRI 200 or CRI 1501, which demonstrate that the organization raised, in each of its two fiscal years preceding its application to participate in a Campaign, at least \$35,000 from individual citizens of New Jersey;

3. With respect to N.J.S.A. 52:14-15.9f, [annual financial reports] **CRI 200 or CRI 1501**, which demonstrate that the organization raised at least \$60,000 and either [i] (b)3i or ii below.

i.-ii. (No change.)

4. A copy of the organization's Internal Revenue Service form 990 **signature page, revenue page, and expenses page** for each of the organization's two fiscal years preceding its application;

5. (No change.)

6. A statement affirming that the organization is currently in full compliance with the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq., and implementing rules at N.J.A.C. 13:48 and has been for the fiscal year preceding and to the date [of] when its application is submitted;

7. [A copy of the organization's independent auditor's report] **Certification that the organization was audited in accordance with generally accepted accounting principles by an independent certified public accountant** for each of the organization's two fiscal years preceding its application;

8.-12. (No change.)

(c) (No change.)

(d) Those wishing to receive an application [can] **may** do so by [making a request either orally or in writing to the address and telephone number as published in the New Jersey Register in the annual Public Notice for Applications for the State Employee Charitable Campaign] **downloading a copy from the New Jersey Employee Charitable Campaign website or contacting the Campaign Manager's office.**

(e) (No change.)

(f) **In order to meet its application requirements for local units of government, each charitable fund-raising organization found eligible to participate in the State Campaign Steering Committee need only submit to the local Campaign Steering Committee, along with its request to participate in the local Campaign, the letter of the State Campaign Steering Committee so stating eligibility to participate in the State Campaign. Charitable fund-raising organizations, which participated on the local Campaign Steering Committee for the immediately preceding Campaign and which do not participate on the State Campaign Steering Committee need only submit the most recent information to update the information required in (b) above.**

SUBCHAPTER 3. CHARITABLE FUND-RAISING CAMPAIGN

17:28-3.1 Eligibility

(a) A charitable fund-raising organization eligible for membership on the Campaign Steering Committee [shall] **must** be eligible to participate in the Campaign.

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

17:28-3.2 Application procedure for unaffiliated agencies, **which may be submitted electronically**

(a) (No change.)

(b) The application procedure for charitable agencies is as follows:

1. The [State Treasurer] **Campaign Manager** shall [publish in the New Jersey Register a public notice of] **advertise, using the Internet or other contact mechanisms, to notify that applications are being accepted** for charitable agencies wishing to participate in the Campaign at least 30 days prior to the application due date. These applications are due by the close of business on the date and at the location specified in the notice **and may be submitted electronically.** The current Campaign Steering Committee shall review the applications.

2. (No change.)

3. Any charitable agency receiving notice of ineligibility shall have 15 days from receipt of such notice to file an appeal and [to] submit to the State Treasurer any additional information.

4.-5. (No change.)

17:28-3.3 Application form; unaffiliated charitable agency

(a) The [State Treasurer] **Campaign Manager** shall prepare an application form for unaffiliated charitable agencies wishing to participate in the Campaign.

(b) In addition to the completed application form, the applicant must [submit] **certify:**

1. (No change.)

2. With respect to the requirements set forth in N.J.S.A. 52:14-15.9c7e, [annual financial reports] **CRI 200 or CRI 1501**, which demonstrate that the agency raised, in each of its two fiscal years preceding its application to participate in a Campaign, at least \$15,000 from individual citizens of New Jersey;

3. A copy of the agency's Internal Revenue Service form 990 **signature page, revenue page, and expense page** for each of the agency's two fiscal years preceding its application;

4.-5. (No change.)

6. A copy of the agency's annual report (or other document that fully describes the agency's activities and accomplishments and provides the names of chief administrative personnel) for each of the agency's two fiscal years preceding its application unless the agency is not required to submit an audit to the Division of Consumer Affairs in order to remain in compliance with the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq.

i. **Certification that the organization was audited in accordance with generally accepted accounting principles by an independent certified public accountant.** Each agency not required to submit an audit to the Division of Consumer Affairs in order to remain in compliance with the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq., in the agency's two fiscal years preceding its application must [submit the two previous years' certified] **certify that they can provide** financial statements signed by an authorized officer;

[7. A copy of the agency's annual report for each of the agency's two fiscal years preceding its application;]

[8.] 7. A statement affirming that the agency provides health, welfare, or human care services within New Jersey, and a description of the services; and

[9.] 8. (No change in text.)

(c) The application may also require any general background information of the applicant charitable agency, which may aid the State Treasurer or **Steering Committee** in [his or her determination of] **determining** an agency's eligibility.

(d) Those wishing to receive an application can do so by [making a request either orally or in writing to the address and telephone number as published in the New Jersey Register in the annual Public Notice for Applications for the State Employee Charitable Campaign] **downloading a copy from the New Jersey Employee Charitable Campaign website or contacting the Campaign Manager's office for the local unit of government.**

(e) An unaffiliated charitable agency, that was found eligible by the State Treasurer to participate in the Campaign immediately prior to the Campaign being applied for, shall be required only to submit [to the State Treasurer] its most recent information, which shall specifically update the requirements of (b) above.

(f) (No change.)

SUBCHAPTER 4. CAMPAIGN ADMINISTRATION

17:28-4.1 General provisions

The provisions of this subchapter shall apply to State **and local unit of government** employees whose compensation is payable by the State Treasurer or **appropriate disbursing officer.**

17:28-4.2 Campaign period

(a) The campaign solicitation period will be [scheduled for a continuous 10-week period during the months of September, October, November and December; but, in any event it shall not extend beyond December 10] **no longer than September 1st through December 31st.**

(b) Participating charitable fund-raising organizations and charitable agencies may not engage in solicitation activities among State **or local unit of government** employees at the work site of the State employee or **local unit of government employee** during the non-Campaign period.

17:28-4.3 Campaign literature

(a) The Campaign Steering Committee shall be responsible for the design, printing, and distribution of Campaign pledge/designation cards

and other Campaign literature[.] **and the content and design of a Campaign website. Local units of government have the option of creating and maintaining a campaign website, but are not required to do so.**

(b) The State Treasurer **or head of the local unit of government** shall approve, prior to distribution **or launch**, the content of any **print or electronic** Campaign pledge/designation card, Campaign literature, and/or other materials to be distributed to State **and local unit of government** employees during the course of a Campaign to ensure that the information contained in these materials is accurate and fair. The State Treasurer **or head of the local unit of government** shall also approve, prior to distribution, the form of any Campaign materials to ensure compliance with administrative requirements of the Campaign.

(c) **The Campaign will create and/or maintain a giving website where employees may make their donations/designations to the Campaign. Local units of government have the option of creating a giving website, but are not required to do so.**

17:28-4.5 Form of contribution

(a) Employees may contribute to eligible charitable fund-raising organizations and/or charitable agencies either **by cash, check, electronic check, credit card**, or a specified amount to be deducted from their compensation each pay period.

(b) **Contributions can be made using the pledge/designation card or by using the Campaign giving website.**

17:28-4.6 Designated contribution

(a) Employees may designate, on a Campaign pledge/designation card, their contribution to [a] specific charitable fund-raising organizations and/or charitable [agency] **agencies** participating in the Campaign, and/or may select the undesignated option. Designated contributions through the payroll deduction or in cash shall be a minimum contribution of \$1.00 per week (\$2.00 per pay period, or \$52.00 per year) per charitable fund-raising organization or agency designated. The minimum contribution requirement shall be met for each additional charitable fund-raising organization or agency designated.

(b) (No change.)

17:28-4.7 Distribution of contributions

(a) (No change.)

(b) Undesignated contributions and designations to charitable agencies not approved to participate in the Campaign shall be distributed to participating charitable fund-raising organizations **and unaffiliated charitable agencies** in the same proportion that these charitable fund-raising [organizations] **organizations/unaffiliated charitable agencies** received designated funds.

(c) (No change.)

(d) **Should an agency participating in the Campaign cease operations before all payouts have been made, the funds will be returned to the undesignated portion of the Campaign and distributed to participating charitable fund-raising organizations and unaffiliated charitable agencies in the same proportion that these charitable fund-raising organizations/unaffiliated charitable agencies received designated funds.**

17:28-4.8 Selection and use of campaign volunteers

(a) (No change.)

(b) At the close of the Campaign, the [campaign] **Campaign** volunteers shall:

1. Collect from [State] **all** employees the completed pledge/designation cards and any cash contributions;

2. -3. (No change.)

17:28-4.9 Campaign education

(a) Participating charitable fund-raising organizations and charitable agencies may engage in educational activities among State **or local** employees at the workplace, but only as detailed in this subchapter.

(b) During the Campaign, educational activities may take place only by a representative of the Campaign and when an authorized person at the workplace either requests or invites a representative of the Campaign to speak to and educate State **or local** employees about the Campaign. The representative of the Campaign may only:

1.-3. (No change.)

(c) During non-Campaign periods, participating charitable fund-raising organizations and charitable agencies may engage in educational activities among State **or local** employees at the work site of the State **or local** employees, as long as an authorized person at the work site either requests or invites a representative of the charitable fund-raising organization or charitable agency to educate [State] employees about their organization, and:

1. The representative identifies, describes, or explains the organization's or agency's programs, without engaging in activity, which could be construed as a direct or indirect request for a **financial** contribution; and

2. (No change.)

SUBCHAPTER 5. CAMPAIGN ACCOUNTS FOR STATE EMPLOYEES

17:28-5.2 Payroll deductions

(a) Upon receipt of the completed pledge cards **and a donation/designation report from the Campaign giving website**, and for each pay period, Centralized Payroll shall deduct the total amount of contribution, as requested by each State employee, from the employee's payroll check.

(b) At the end of each pay period, Centralized Payroll shall determine, and the Office of Management and Budget shall certify, the total amount deducted by State employees for charitable fund-raising.

(c) (No change.)

(d) An employee may exercise his or her option of canceling his or her deduction for charitable contributions by submitting [a completed cancellation card] **written notice** to his or her payroll clerk.

17:28-5.4 [(Reserved)] Local government provisions

(a) **The provisions of this section shall apply only to local units of government and are as follows:**

1. **At the end of the local Campaign solicitation period, the Chief Executive Officer of the local unit of government shall provide to the local Campaign Manager information containing the total amount contributed by the employees of the local unit of government to charitable fund-raising organizations and charitable agencies participating in the local Campaign.**

2. **The operation of the payroll deduction system for each local unit of government Campaign will be provided by the local unit of government as a service to its employees in the same manner that other authorized deductions are provided.**

3. **Other costs attributed to the local unit of government Campaign including, but not limited to, the design, printing, or preparation, and distribution of Campaign materials and Campaign accounting and administration to be conducted by the local Campaign Manager shall be payable by the local Campaign Steering Committee from contributions. These costs shall not exceed the statutorily designated percentage of the total amount of contribution in the local unit of government Campaign.**

SUBCHAPTER 6. CAMPAIGN PROCEDURE FOR BOARDS, COMMISSIONS, AND AUTHORITIES

17:28-6.2 Procedure for boards, commissions, and authorities

(a)-(e) (No change.)

(f) The payroll or fiscal officer of each board, commission, and authority shall prepare a statement for the Campaign Manager exhibiting the total amount contributed by employees [of the boards, commissions and authorities through the use of the payroll deduction]. **This will be compiled from completed pledge/designation cards and a report from the Campaign giving website.**

(g) (No change.)

(h) An employee may exercise his or her option of canceling his or her deduction for charitable contributions by submitting [a completed cancellation card] **written notice** to his or her payroll clerk.

SUBCHAPTER 7. ADMINISTRATIVE COSTS OF THE CAMPAIGN

17:28-7.1 Costs of operating payroll deduction system

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

(c) **The appropriate disbursing officer for each local unit of government shall establish a payroll deduction system for the collection and distribution of voluntary charitable contributions by employees of the local unit of government.**

17:28-7.2 Budget for other Campaign costs

(a) Proposals for campaign manager submitted to the Campaign Steering Committee shall include a budget for other Campaign costs including, but not limited to, the design, printing, or preparation, and distributions of Campaign materials and Campaign accounting and administration to be conducted by the campaign manager.

(b) The budget for other Campaign costs may not exceed [10 percent] **the statutorily designated percentage (see N.J.S.A. 52:14-15.9c12)** of the total contributions received during the prior Campaign.

17:28-7.3 Payment of other Campaign costs

(a) (No change.)

(b) Other Campaign costs shall not exceed [10 percent] **the statutorily designated percentage (see N.J.S.A. 52:14-15.9c12)** of the total amount of contributions received.

(c) (No change.)

(d) In the event that, after the actual total amount of Campaign contributions is received, the compensation deducted from the first three quarterly disbursements exceeds [10 percent] **the statutorily designated percentage (see N.J.S.A. 52:14-15.9c12)** of that total, the [campaign manager] **Campaign Manager** shall promptly reimburse the overage to the interest-bearing account for the Campaign. That amount shall be distributed to charitable agencies in the same manner as interest on the account is distributed under this chapter.

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

Motor Fuels—Retail Sales

Proposed Readoption with Amendments: N.J.A.C. 18:19

Authorized By: John J. Ficara, Acting Director, Division of Taxation.

Authority: N.J.S.A. 56:6-6.

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

Proposal Number: PRN 2017-115.

Submit comments by September 1, 2017, to:

Elizabeth J. Lipari
Administrative Practice Officer
Division of Taxation
Director's Office
50 Barrack Street
PO Box 240
Trenton, NJ 08695-0240
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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 18:19 was scheduled to expire on November 29, 2017. As the Division of Taxation (Division) filed this notice of proposal with the Office of Administrative Law prior to that date, the expiration date of the chapter was extended 180 days to May 28, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division has reviewed these rules and has

determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated.

The Division proposes to readopt these rules with necessary amendments to conform the rules to the current provisions of "An Act to Regulate the Retail Sale of Motor Fuels" (Act), N.J.S.A. 56:6-1 et seq. The Act was enacted into law by P.L. 1938, c. 163. The statute protects the interest of motorists and of retail dealers by facilitating and safeguarding the orderly distribution and marketing of motor fuels. The rules have been updated and revised periodically through internal agency review as required by changes in legislation and changes in the regulatory environment.

In 1992, it was determined that the Act and the Motor Fuels Tax Act needed to be updated. The New Jersey Commission of Investigation issued a report, dated February 1992, entitled Motor Fuel Tax Evasion. It detailed and analyzed some of the weaknesses of the then-current system. Shortly afterward, on June 22, 1992, P.L. 1992, c. 23 was enacted. It resulted in major revisions to the collection and enforcement procedures of the Motor Fuels Tax Act and the Act.

As a result of that statutory action, major amendments to the rules were adopted in order to conform them to the legislative action (see 26 N.J.R. 4512(a); 27 N.J.R. 535(a)).

In addition, P.L. 1995, c. 51, was approved March 17, 1995. That statutory change permitted a rebate in the purchase of motor fuels with respect to credits earned through purchases on a credit card. As a result, N.J.A.C. 18:19-2.3 was updated to conform the rules to the statute (see 29 N.J.R. 2693(a); 3854(a)).

The rules proposed for readoption are summarized as follows:

Subchapter 1 contains general provisions, including definitions.

Subchapter 2 deals with posted prices and signs, advertising, rebates, allowances, trademarks, and display of trade names.

Subchapter 3 sets forth fines, violations, penalties, and enforcement.

Subchapter 4 deals with totalizers and records required to be kept by retail dealers.

Subchapter 5 sets forth powers of the Director to enforce the statute.

Subchapter 6 deals with crime of the fourth degree of altering a totalizer.

The Division proposes technical amendments to correct grammar and typographical errors, to substitute plain language, and to recodify rules for the purpose of achieving clarity.

Specifically, the following changes are proposed:

N.J.A.C. 18:19-1.1 is proposed for amendment to delete the terms "seller of special fuels," "special fuels," and "user of special fuels" to reflect the change in the point of taxation that occurred under the Motor Fuel Tax Act in 2010 (See P.L. 2010, c. 22, § 56, effective June 29, 2010, operative Jan. 1, 2011; amended 2010, c. 79, § 29) which repealed the former Motor Fuels Tax Act, N.J.S.A. 54:39-1 et seq. (P.L. 1992, c. 23). P.L. 2010, c. 22 (sometimes hereinafter referred to as the "MFTL"), was approved June 29, 2010, and became effective for privilege periods beginning on and after January 1, 2011.

N.J.A.C. 18:19-2.1 and 2.2 are proposed for amendment to provide for digital signage in addition to a suitable bracket or slot arrangement due to changes in technology relating to signage.

N.J.A.C. 18:19-2.3 is proposed for amendment to provide for credits earned through purchases on a debit card or rewards card as set forth under N.J.S.A. 56:6-2(e) and to delete the term "prizes" in conformity with N.J.S.A. 56:6-2(f).

N.J.A.C. 18:19-4.1(b)4 and 6, and 4.2 are proposed for amendment to delete the terms "gasoline," "seller of special fuels," "special fuels," and "user of special fuels" to reflect the change in the point of taxation that occurred under the Motor Fuel Tax Act in 2010.

As 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 Motor Fuels—Retail Sales rules were originally adopted to provide motorists, oil companies, and retail dealers of motor fuels with guidance and assistance in the administration of the Act. The Act and the rules promulgated pursuant to the Act reflect a balancing of various interests including the motorists' right to know the price of fuels available and the prevention of potentially destructive competition between and among motor fuels dealers. The marketing of motor fuels is