

TREASURY - GENERAL  
DIVISION OF REVENUE  
Commercial Recording  
Publication of Bulk Access Fee Schedules  
Proposed New Rules: N.J.A.C. 17:34

Authorized By: John E. McCormac, CPA, State Treasurer  
Authority: N.J.S.A.14A:15-3, 15A:15-2, 42:2A-68, 42:2B-65, 22:4-1a,12A:9-525,  
12A:9-523(f),52:16A-40, 52:7-11, 56:1-1 et seq.; and N.J.S.A.56:3-1 et seq.

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

Proposal Number: PRN 2003-118

Submit comments by June 6, 2003 to:

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225 West State Street  
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Attn: Bulk Access Rule Proposal

The agency proposal follows:

## **Summary**

The Department of the Treasury, Division of Revenue, proposes to promulgate new rules for publishing fee schedules for bulk access to its various commercial recording record systems. These include the State's corporate, Uniform Commercial Code, trade name, trade/service mark and other systems commonly associated with the State's commercial recording program. Under various State laws, the State Treasurer assesses fees for access to records and reports maintained in these systems.

The new rules clarify that existing State statutes provide for fee-based access to commercial recording record systems, and that these fees apply to all forms of access, including bulk access. Bulk access involves access to and dissemination of all or substantial portions of stored records in a single request.

With regard to commercial recording record systems, the general public may not have an understanding of how existing fee schedules relate to bulk access. By formally clarifying this relationship in published fee schedules, the Department of the Treasury will foster greater understanding and awareness of bulk access options for commercial recording record systems, and also establish a flexible basis for communicating these options to the general public.

Importantly, because bulk access will often involve automated or digital records/reports, which can be generated in different combinations and formats over time, the proposed new rules focus on publishing bulk access fee schedules that are based on existing statutory fees, rather than on promulgating the specific bulk access fees themselves. This will ensure flexibility and on-going responsiveness to the varied demands for access to these vital record systems.

A summary of each proposed subchapter follows.

Subchapter 1 lists the purpose of the proposed new rules and basic definitions that relate to published fee schedules for commercial recording record systems.

Subchapter 2 defines the specific procedures for publishing fee schedules for bulk access to commercial recording record systems.

Subchapter 3 specifies the procedures by which the general public may obtain commercial recording records/reports in bulk.

Subchapter 4 defines the circumstances in which the Treasurer may apply direct cost criteria in granting bulk access to commercial recording record systems and the associated bulk access procedures.

## **Social Impact**

Access to the corporate, Uniform Commercial Code and other commercial recording record systems has an important and positive impact on society. Collectively, these systems provide public notice of key commercial transactions such as the formation of legal business entities, filing of commercial liens, and registration of trade names and trade marks. Historically, the State has provided access to commercial recording records and reports on a for-fee basis. In this connection, the State has the means to provide such records reports in bulk, in various formats including paper, magnetic and other digital media. Accordingly, as custodian of the State's commercial recording record systems, the Department of the Treasury seeks approval to publish bulk access fee schedules. This will foster greater understanding and awareness of this access option.

## **Economic Impact**

Access to commercial recording record systems has an important impact on the economy. By consulting these systems, the general public and State's business community obtain information on the status of business entities, business name usage, the procedural validity of commercial transactions, and the existence of secured loans. Collectively, such information is vital to our systems for legal service of process, business and tax registration, and generally, for the efficient flow of capital and commerce in this State.

Relative to the fees for bulk access, it is important to highlight that the State will charge the same fees that have been in place for record-by-record access, which have been in place for decades. Therefore, the bulk access fee schedules will not increase the unit costs for access to the State's commercial recording record systems. Further, as has also been the case for decades, businesses will be required to invest administrative resources in completing information access requests.

## **Federal Standards Statement**

A Federal standards statement is not required because the proposed new rules relate strictly to the State of New Jersey's bulk commercial recording record access services and associated fees. The rules are therefore independent from any Federal systems or requirements.

## **Jobs Impact**

The proposed new rules will not result in the creation or loss of jobs.

## **Agricultural Industry Impact**

The proposed new rules will not have an impact on the agricultural industry.

## **Regulatory Flexibility Analysis**

The proposed new rules are designed to foster greater understanding and awareness of bulk access options for commercial recording record systems, and also establish a flexible basis for communicating these options to the general public. Anyone requesting bulk access, including small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., must utilize the procedures set forth in the rules. Fees and administrative costs that will be incurred are discussed in the Economic Impact above. No professional services are necessary to comply with these rules. The Division considers the requirements of these rules to be the minimum necessary for the maintenance of a bulk access service. For that reason, and because the requirements imposed are not administratively burdensome, the Division has not provided any exceptions or lesser requirements for small businesses.

## **Smart Growth Impact**

The proposed new rules will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

## **CHAPTER 34.**

# **COMMERCIAL RECORDING - PUBLICATION OF BULK ACCESS FEE SCHEDULES**

## **SUBCHAPTER 1. GENERAL PROVISIONS**

### **17:34-1.1 Purpose**

(a) These rules outline the basic procedures for publishing fee schedules for bulk access to commercial recording records and reports maintained by the State's filing officer, the State Treasurer, and the designated filing office, the Business Support Services Bureau, Division of Revenue. The rules also set forth procedures for obtaining records in bulk from the Business Support Services Bureau and the specific circumstances under which direct cost alternatives may apply to bulk access requests.

(b) Generally, these rules are designed to foster greater understanding and awareness of this access option.

### **17:34-1.2. Definitions**

For the purposes of these procedures, the definitions below apply.

"Bulk access" means access to and dissemination of records and reports from the State's commercial recording record systems in quantities of not less than 500 records or reports per request, in various formats including paper, magnetic and other digital media.

"Commercial Recording Record System" means any of the State's traditional commercial recording records systems including but not limited to the corporate/business entity, trade name, trade/service mark, Uniform Commercial Code, and collection agency bond systems.

"Filing office" means the Department of the Treasury, Division of Revenue, Business Support Services Bureau, which hereafter shall be cited as DOR/BSSB.

"Filing officer" means the Treasurer of the State of New Jersey.

"Record/report" means any filed document or information stored in one of the State's Commercial Recording systems.

## **SUBCHAPTER 2. PUBLISHING BULK ACCESS FEE SCHEDULES**

### **17:34-2.1 Procedure for publishing bulk access fee schedules**

(a) The filing officer may publish fees schedules for bulk access to records maintained within the State's existing commercial recording record systems. Such schedules must contain line item numbers for each fee, the type of record or report associated with each line item, its informational content, the media on which the record or report will be provided, the manner in which the records/reports may be selected (for example, filing date range, or filing number range), the per record/report fee amount and the statutory basis for the fee.

(b) DOR/BSSB shall publish any fee schedules for bulk access online at the Division of Revenue's Internet site ([www.state.nj.us/treasury/revenue](http://www.state.nj.us/treasury/revenue)). DOR/BSSB shall also provide paper copies of bulk access fee schedules upon receipt of written requests directed to the Division of Revenue's e-mail address ([info@revenue.state.nj.us](mailto:info@revenue.state.nj.us)) or sent via regular mail to PO Box 450, Trenton, NJ 08625.

## **SUBCHAPTER 3. PROCEDURES FOR BULK ACCESS**

### **17:34-3.1 Procedure for obtaining commercial recording records/reports in bulk**

(a) Bulk access requests may be delivered to the DOR/BSSB through any of the means outlined below:

1. Personal delivery, at the DOR/BSSB's street address. The address is 225 West State Street, Trenton, NJ 08608, 3rd Floor.

2. Courier delivery, at the DOR/BSSB's street address. The address is 225 West State Street, Trenton, NJ 08608, 3rd Floor.

3. Postal service delivery, to the DOR/BSSB's mailing address. The address is PO Box 450, Trenton, New Jersey, 08625.

4. Electronic Mail. The e-mail address is [info@revenue.state.nj.us](mailto:info@revenue.state.nj.us).

### **17:34-3.2 Request format and process**

(a) Bulk access requests must clearly reference the line item from the applicable DOR/BSSB bulk access fee schedule, the type of record/report involved and the selection criteria (for example filing date range or filing number range), the medium on which the records/reports should be returned to the requester and a return address. If the bulk request relates to a record/report format not currently listed on a bulk access fee schedule, the request must reference the record system involved and the specific type of

information required, along with suggested selection criteria and output media designation.

(b) Upon receipt of a bulk access request, DOR/BSSB shall determine whether the request meets the criterion for bulk access (500 records/reports or more) and then determine the total cost of the request based on the volume of records/reports associated with the selection criteria and applicable per record/report fee. If the request is for records/reports not listed on an existing bulk fee schedule, DOR/BSSB will assess the informational content of the request, determine which existing access fee applies, and then calculate the total cost of the request. The filing officer must concur with the DOR/BSSB's fee determination before work on the request may proceed.

(c) For requests that meet the bulk access criterion and that can be output to the requested medium, DOR/BSSB will write back to the requester indicating the total cost and estimated time frame for providing the requested records/reports. The requester may submit, via a method of delivery listed in this subchapter, a written authorization to proceed to DOR/BSSB, along with payment of the fee amount by one of the methods listed in this subchapter. Alternately, the requester may submit a modified access request by adjusting the selection criteria. Upon receipt of authorization and payment in full for a bulk request, DOR/BSSB will produce the requested records/reports and send them to the requester (to the requester's specified address), on the specified media.

(d) For requests that do not meet the bulk access criterion or that are otherwise not feasible to process due to technical limitations associated with output media or filing office processing capabilities, DOR/BSSB will advise the requester in writing, and specify the reasons that the bulk request cannot be fulfilled. In the same communication, DOR/BSSB shall advise the requester of any alternative methods for obtaining the requested records/reports.

(e) DOR/BSSB will add new line items to its bulk access fee schedules each time a new bulk request is fulfilled in accordance with the procedures set forth at N.J.A.C.17:34-2.1.

(f) Bulk access requesters may pay for bulk access services by the following methods:

1. Checks. Personal, cashier's or certified checks made payable to the "Treasurer, State of New Jersey" are acceptable.

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

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

2. Prepaid account. A requester may open an account for prepayment of fees by submitting an application furnished by the DOR/BSSB. The minimum balance for a prepaid account is \$500. The DOR/BSSB shall issue an account number to be used by a requester who chooses to pay fees in advance. The DOR/BSSB shall deduct fees from the requester's prepaid account when DOR/BSSB performs a bulk access service. Upon written request to PO Box 455, Trenton, NJ 08625 (ATTN: Depository Accounts), the DOR/BSSB will provide an agreement form for establishing a prepaid account.

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

(g) The process outlined in this subchapter can be instituted on an ongoing basis such that DOR/BSSB provides periodic bulk updates to reflect changes (additions and modifications) to the various commercial recording record systems.

## **SUBCHAPTER 4. PROCEDURES FOR APPLYING DIRECT COST CRITERION OR SELF-COPY FEES FOR BULK ACCESS**

### **17:34-4.1 Circumstances in which direct cost criterion or self-copy fees may apply and associated request procedures**

(a) Through the DOR/BSSB, the filing officer may grant bulk access for the direct cost of reproduction, including special programming costs, under the following circumstances.

1. Non-profit usage. The direct cost criterion may be applied in cases where a bona-fide non-profit organization seeks to use commercial recording records/reports on a non-recurring basis, for a purpose directly associated with its organizational mission. DOR/BSSB may request any documentation needed to establish the nonprofit status of the requester, including but not limited to documentation regarding corporate status, 501c (3) status and compliance with charities registration. The requester must also satisfactorily describe the intended uses for the requested records/reports and certify that the uses relate directly to the organization's nonprofit purpose.

i Nonprofits seeking bulk access must follow the procedures set forth at N.J.A.C.17:34-3 and add a written statement to their requests indicating that they wish to obtain the requested records/reports for a nonrecurring nonprofit purpose. DOR/BSSB may require the requester provide additional documentation to establish the requester's nonprofit credentials and/or to determine nature of the intended use of the requested records/reports.

ii. If the request is granted, DOR/BSSB and the requester shall complete the bulk access process in accordance with the procedures set forth at N.J.A.C. 17:34-3.2, except that the direct cost of reproduction shall be substituted for the fee amount.

iii. If the request is denied, the requester may obtain access for the statutory fee amount.

2. Limited informational lists on the Internet. The direct cost criterion may be applied in cases where DOR/BSSB provides limited informational list services on the Internet as a convenience to the general public and business community. Such list services may be basic abstracts of commercial recording records on file with DOR/BSSB and may be drawn from secondary information sources such as duplicate computer files established for Internet information access services. The procedures for accessing informational lists shall be set forth on the applicable Internet site.

(b) On-site self-copying -- To facilitate the implementation of New Jersey's revised Uniform Commercial Code bulk copying provisions (N.J.S.A. 12A:9-523(f)), DOR/BSSB may allow a requestor to copy Uniform Commercial Code records at DOR/BSSB's work site using his or her own equipment and personnel. Self-copying will only be allowed if such operations pose no risks of disrupting DOR/BSSB's routine services or of compromising the security or integrity of the State's commercial recording record systems. DOR/BSSB shall, at its sole discretion, determine whether any requested self-copying operation poses an unacceptable risk to service levels or system security/integrity. DOR/BSSB shall publish bulk self-copying fees in accordance with the procedures set forth at N.J.A.C. 17:34-2.1.

1. Persons requesting on-site self-copying must follow the procedures set forth at N.J.A.C. 17:34-3 and add a written statement to their requests indicating that they wish to perform on-site self copying. DOR/BSSB may require the requester provide additional documentation to determine the nature and scope of the requested self-copying operation.

i. If the request is granted, DOR/BSSB and the requester shall complete the bulk access process in accordance with the procedures set forth at N.J.A.C. 17:34-3.2.

ii. If the request is denied, the requester may obtain access for the statutory fee amount.