

Commission does need to amend its regulations to allow for the light permit for these vehicles.

Full text of the adoption follows:

SUBCHAPTER 1. DEFINITIONS

13:24-1.1 Definitions

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

...
 “Farm vehicle” means any farm or agricultural tractor, self-propelled machine, or implement, or any combination thereof, that is primarily designed for farm or agricultural operations.

...
 “Public road” means any road, street, or highway under the jurisdiction of, and maintained by, a public authority and open to public travel.

...

SUBCHAPTER 4. FLASHING AMBER LIGHT PERMITS

13:24-4.1 Permit eligibility

(a) Owners or lessees of the following types of vehicles are eligible for flashing amber light permits.

1.-7. (No change.)

8. Farm vehicles:

i. A flashing amber light may be used by a farm vehicle while traveling on a public road.

(b)-(f) (No change.)

13:24-4.2 Permit application procedure

(a) (No change.)

(b) Except as otherwise provided in (c), (d), (e), and (f) below, the application, after completion, is to be signed by the chief law enforcement official in the municipality in which the service is being provided. Thereafter, the application should be submitted to the Commission together with the fee specified in N.J.S.A. 39:3-50(d).

(c)-(e) (No change.)

(f) The application, after completion, is to be signed by the chief law enforcement official in the municipality in which the farm is located. Thereafter, the application should be submitted to the Commission together with the fee specified in N.J.S.A. 39:3-50(d).

(g) (No change in text.)

service credit to be paid in full at least 30 days prior to the member’s retirement date. The commenter expresses opposition to this amendment because it unnecessarily renders it more difficult for pension system members to complete a purchase of service credit. The commenter notes that members may purposely set their retirement date for the month after they complete the purchase of service credit; if a member must complete payment for the purchase 30 days prior to his or her retirement date, the member will have to make a double payment.

Further, the commenter asserts that it does not state anywhere that a purchase of service credit must be completed 30 days prior to retirement. The commenter notes that the Division’s Fact Sheet #1 outlines the types of purchases and the procedures for making purchases. Currently it states that “... if you retire before completing all of the scheduled payments, you will automatically receive prorated credit for the amount of service you have paid for or you can pay the remaining balance in a lump-sum and receive full credit.” It does not state anywhere on the fact sheet that a purchase must be completely paid for 30 days prior to retirement.

Finally, the commenter notes that since pension payments are not actually due and payable until 30 days after the retirement date, a completion of payment for the purchase by the retirement date allows for time to adjust the payment by the time the retirement is due and payable. Further, the Division will process other retirement changes that impact the pension payment, such as a change in the beneficiary or pension option, up until the point that the pension is due and payable.

RESPONSE: The Division thanks the commenter for the comments dated October 2, 2017. However, members must complete their purchase of service credit 30 days prior to the retirement date to ensure that they qualify for the proper retirement benefit on the requested date of retirement. If service credit must be prorated, it may cause members to no longer qualify for the retirement benefit, and this information must be reported to the members before the member’s last day of employment in case they need to work a little longer to qualify for the benefit. Furthermore, to ensure that members are paid their first retirement check on a timely basis (including time for board approval), it is imperative that all arrears balances be satisfied at least 30 days prior to retirement. In addition, members have the option of paying off an arrears balance in other ways, such as through a pension loan, which can be carried into retirement, or through a direct rollover or trustee-to-trustee transfer of tax-deferred funds from a qualified retirement plan.

On the basis of the reasons stated above, N.J.A.C. 17:1-4.1 will be adopted as proposed. Once the rule is adopted, the purchase fact sheets will be updated to reflect the amended rule.

Federal Standards Statement

The adopted amendments meet, but do not exceed, the applicable Federal standards, that is, 26 U.S.C. §§ 401(a), 403(b), and 414(d). There are no other Federal standards applicable to the subject matter of this chapter; therefore, a Federal standards analysis is not required.

Full text of the adopted amendments follows:

SUBCHAPTER 4. PURCHASES AND ELIGIBLE SERVICE

17:1-4.1 Purchases; cancellation, interest on outstanding purchases, or cash discount requested

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

(c) For a member who has authorized a purchase of service credit on or after September 8, 1998, and who is inactive, or becomes inactive, the following provisions shall apply:

1. A member who authorizes a purchase that requires installment payments but who has not had installment payments made toward that purchase for two years due to inactivity in the account, shall receive written notice from the Division that the remainder of the purchase will be canceled. The member shall receive a pro rata credit for the service purchased to the date that the installment payments ceased. Any subsequent requests to purchase the remaining service credit shall be based on the laws and rules in effect on the date that the subsequent request is received.

2. The member may request to pay, in full, the cash discount value of the outstanding arrearage for the purchase within 60 days of the Division

TREASURY—GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

General Administration

Purchases and Eligible Service

Adopted Amendment: N.J.A.C. 17:1-4.1

Proposed: September 18, 2017, at 49 N.J.R. 3098(b).

Adopted: December 14, 2017, by John Megariotis, Acting Director, Division of Pensions and Benefits.

Filed: December 14, 2017, as R.2018 d.027 **without change**.

Authority: N.J.S.A. 52:14-15.1a (P.L. 1996, c. 8) and 52:18A-96 et seq.

Effective Date: January 16, 2018.

Expiration Date: May 17, 2023.

Summary of Public Comment and Agency Response:

Comments on the notice of the proposed amendment were received from Sarah Favinger, Associate Director, on behalf of the New Jersey Education Association (NJEA).

1. COMMENT: The commenter expresses several major concerns about the proposed amendments to N.J.A.C. 17:1-4.1. The commenter states that proposed N.J.A.C. 17:1-4.1(d) will require all purchases of

notice. The cash discount value of the outstanding arrearage for the purchase will be calculated with interest from the date of the last installment payment.

3. A member who authorizes a purchase that requires installment payments but who has not had installment payments made toward that purchase for two years for reasons other than inactivity shall have the installment payments recertified. The recertified installment payments will be calculated with interest from the date of the last installment payment.

4. A member returning from an approved leave of absence after two years may request that the original purchase be resumed. Such purchase shall be recalculated to include additional regular interest accrued between two years after the date of the last installment payment and the date the purchase is resumed. A member returning from an approved leave of absence within two years shall have the original purchase resumed. Installment payments for the purchase shall recommence without the assessment of additional regular interest.

(d) For a member who has authorized a purchase of service credit by installment and has filed for a retirement allowance, any outstanding balance due must be paid in full at least 30 days prior to the member's retirement date. If a balance remains unpaid at the effective date of retirement, the purchased service credit will be pro-rated. If a member becomes ineligible for a retirement benefit due to the pro-rated service credit, the retirement application will be cancelled and the member will be required to refile a new retirement application for a future retirement date.

(a)

**DIVISION OF PENSIONS AND BENEFITS
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Public Employees' Retirement System**

**Readoption with Amendments: N.J.A.C. 17:2
Adopted Repeal and New Rule: N.J.A.C. 17:2-6.11**

Proposed: July 17, 2017, at 49 N.J.R. 2189(a).
Adopted: December 13, 2017, by the Public Employees' Retirement System Board of Trustees, Jacquelyn Bussanich, Secretary.
Filed: December 13, 2017, as R.2018 d.025, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).
Authority: N.J.S.A. 43:15A-1 et seq.
Effective Dates: December 13, 2017, Readoption;
January 16, 2018, Amendments, New Rule and Repeal.
Expiration Date: December 13, 2024.

Summary of Public Comments and Agency Responses:
Comments on the notice of proposed readoption were received from Sarah Favinger, Associate Director, on behalf of the New Jersey Education Association (NJEA).

N.J.A.C. 17:2-3.8(b) and 3.13(b)
1. COMMENT: The commenter expresses a major concern about the proposed amendment to N.J.A.C. 17:2-3.8(b) and deletion of N.J.A.C. 17:2-3.13(b), regarding group life insurance conversion provisions. More specifically, the commenter states that the proposed changes do not uphold current statutory provisions under N.J.S.A. 43:15A-50 and 93 and contradict the information provided in the Division's Fact Sheet 13, Conversion of Group Life Insurance, prior to July 2016. The commenter states that the Division has since made revisions to Fact Sheet 13, stating that a member must live more than 31 days into retirement for their beneficiary/beneficiaries to receive a payout of the conversion of life insurance, which she asserts is inconsistent with statutory and case law.

The commenter also states that as provided in statute and in Fact Sheet 13, members have the ability to convert, within 31 days of retirement, at the member's expense, the difference between the retired group life insurance amount and the full active group life insurance

amount; however, the commenter asserts that the Division has incorrectly added that the individual policy will not take effect until the expiration of the group life insurance policy at the conclusion of the 31-day grace period. Further, she asserts that in *New Jersey Education Association v. Board of Trustees, Public Employees' Retirement System*, 327 N.J.Super. 405 (App. Div. 2000), the Court held that life insurance did not automatically convert by statutory function, but qualified that holding by stating that the statutory intent only prohibited the collection of both the active and retired benefit "absent an election to purchase additional insurance." The commenter states that this suggests that both benefits would be due if the life insurance policy was converted, as had been the Division's practice until recently.

RESPONSE: Several important factors support the amendment and deletion of the regulations in question, N.J.A.C. 17:2-3.8(b) and 3.13(b), respectively. First and foremost, when the historical context of this area is examined, the statutory intent of the Legislature becomes quite clear. Prior to 1995, the beneficiary of a member who died with a retirement application pending, before the member's retirement became due and payable, would be entitled to active death benefits, which included the member's active group life insurance and a return of the member's contributions. The beneficiary did not have the option of choosing to receive a retired pension benefit and retired group life insurance coverage in place of the active benefits. However, with the enactment of P.L. 1995, c. 221, the Legislature amended N.J.S.A. 43:15A-93 to allow the member's beneficiary to choose to receive either active death benefits or retired death benefits. In such cases, under N.J.S.A. 43:15A-50 and 93, a beneficiary is permitted to select the member's active group life insurance benefits and a return of contributions, or the beneficiary is allowed to select a monthly (pension) beneficiary benefit, along with the member's retired group life insurance benefits.

Thus, the intent of N.J.S.A. 43:15A-50 and 93 is to allow the beneficiary of a member who dies with a retirement application pending to choose either active benefits or retired benefits, based on the beneficiary's own personal needs. The intent is not to allow a member's beneficiaries to receive both benefits. In *New Jersey Education Association v. Board of Trustees, Public Employees' Retirement System*, 327 N.J.Super. 405 (App. Div. 2000), the court pointed out that "the legislative history demonstrates that by amending N.J.S.A. 43:15A-50, the Legislature intended the beneficiary to select either a retirement allowance or an active member death benefit, but not both." In addition, the OLS (Office of Legislative Services) noted that if a beneficiary had previously received the death-in-service life insurance death benefit but now wanted the retirement benefit, the beneficiary would have to return to the PERS a substantial portion of the life insurance death benefit. Surely, there would be no need to consider the return of the life insurance death benefit if the beneficiary was to be given both the death benefit and the retirement benefit. A literal interpretation of the relevant statutes would give benefits to a limited class of beneficiaries that exceed the benefits that a retiring member could receive, absent an election to purchase additional insurance. Further, the commenter's statement that this last phrase suggests that both benefits would be due if the life insurance policy was converted is incorrect. To be literal, the phrase only refers to a purchase of additional insurance, which a member can do at any time through any insurance company; no mention of the group life insurance conversion privilege through membership in the System is made.

In addition, it is important to note that a member's retired group life insurance policy and converted individual policy both do not take effect until 31 days after the date of termination of employment. Thus, a member continues to be covered by his or her active group life insurance until that period ends. At that time, the member's retired group life insurance and any converted individual life insurance, up to the amount of active group life insurance, will take effect. If a member passes away before the effective date of the converted individual policy, the death benefit provided by the policy in effect at that time, the active group life insurance policy, will be paid. In such cases, the converted individual group life insurance has not yet become effective, based on its date of issue, and is, therefore, null and void, so it is not paid to the designated beneficiary. If a payment for the conversion privilege has been made,