

down” provision provided for in N.J.S.A. 39:4-97.3, allowing a second time offender whose first violation occurred more than 10 years prior to the second offense to be sentenced as a first time offender, and a third time offender whose second violation occurred more than 10 years prior to the third offense to be sentenced as a second time offender. The proposed amendment further clarifies that all previous violations of N.J.S.A. 39:4-97.3 are counted when determining the sentence for subsequent violations of the statute, regardless of whether the offender benefited from the step-down provision during the sentencing of a previous violation.

Social Impact

The Commission anticipates any social impact upon adoption of this proposed amendment to be negligible, as the amendment will apply only to those individuals who have three or more convictions under N.J.S.A. 39:4-97.3 and merely implements an existing statute.

Economic Impact

The economic impact of the proposed amendment is anticipated to be insignificant because the proposed amendment simply pertains to assessed motor vehicle points for a person convicted of a third or subsequent violation of prohibited use of a wireless telephone or electronic communication device by an operator of a moving vehicle.

Federal Standards Statement

The Code of Federal Regulations (CFR) was amended in 2010 to prohibit texting while driving in commercial vehicles and prescribe appropriate penalties for violating that rule. See 49 CFR 392.80 and 49 CFR 391.15(e), respectively. However, the CFR does not address texting for non-commercial drivers. Thus, no comparable Federal law or regulation exists, therefore, a Federal standards analysis is not applicable to this rulemaking.

Jobs Impact

The proposed amendment will have no impact on jobs because the amended rule simply pertains to assessed motor vehicle points for a person convicted of a third or subsequent violation of prohibited use of a wireless telephone or electronic communication device by an operator of a moving vehicle.

Agriculture Industry Impact

The proposed amendment will have no impact on the agriculture industry because the amended rule simply pertains to assessed motor vehicle points for a person convicted of a third or subsequent violation of prohibited use of a wireless telephone or electronic communication device by an operator of a moving vehicle.

Regulatory Flexibility Statement

The proposed amendment will have no impact on small businesses because the amended rule simply pertains to assessed motor vehicle points for a person convicted of a third or subsequent violation of prohibited use of a wireless telephone or electronic communication device by an operator of a moving vehicle. Thus, a regulatory flexibility analysis is not required because the proposed amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The proposed amendment will have no impact on housing affordability and would not evoke a change in the average cost associated with housing because the proposed amendment simply pertains to assessed motor vehicle points for a person convicted of a third or subsequent violation of prohibited use of a wireless telephone or electronic communication device by an operator of a moving vehicle.

Smart Growth Development Impact Analysis

The proposed amendment will have no impact on smart growth development 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 proposed amendment simply pertains to assessed motor vehicle points for a person convicted of a third or subsequent violation of prohibited use of

a wireless telephone or electronic communication device by an operator of a moving vehicle.

Full text of the proposal follows (additions indicated in italicized boldface *thus*):

SUBCHAPTER 10. POINT SYSTEM AND DRIVING DURING SUSPENSION

13:19-10.1 Point assessment

(a) Any person who is convicted of any of the following offenses, including offenses committed while operating a motorized bicycle, shall be assessed points for each conviction in accordance with the following schedule:

<u>Section Number</u>	<u>Offense</u>	<u>Points</u>
37. <i>N.J.S.A. 39:4-97.3</i>	<i>Prohibited use of wireless telephone or electronic communication device while driving, third or subsequent violation (No points will be assessed for the third violation if it occurs more than 10 years after the second violation)</i>	3

Recodify existing 37.-54. as 38.-55. (No change in text.)

(b) *The treatment of a violation under the “step down” sentencing provision in N.J.S.A. 39:4-97.3 is solely for the purposes of calculating penalties at sentencing for a second time offender whose first violation occurred more than 10 years prior to the second offense, or a third time offender whose second violation occurred more than 10 years prior to the third offense. Penalties for an offense committed under N.J.S.A. 39:4-97.3 will be assessed based on the total number of N.J.S.A. 39:4-97.3 violations for which an individual has been convicted. In cases where a third time offender’s second offense occurred more than 10 years prior to the third offense, no motor vehicle points shall be assessed. Third offender status will apply where fewer than 10 years have elapsed between the second and third offenses, even if more than 10 years have elapsed between the first and second offenses. Points shall be assessed for all convictions subsequent to the third conviction even if the individual previously benefited from the limited step down provision for a previous conviction.*

TREASURY — GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

TEACHERS’ PENSION AND ANNUITY FUND

Teachers’ Pension and Annuity Fund

Proposed Readoption and Amendments: N.J.A.C. 17:3

Proposed Repeal and New Rule: N.J.A.C. 17:3-6.11

Proposed Repeals: N.J.A.C. 17:3-1.8 and 6.15

Proposed New Rule: N.J.A.C. 17:3-4.14

Authorized By: Teachers’ Pension and Annuity Fund Board of Trustees, Mary Ellen Rathbun, Secretary.

Authority: N.J.S.A. 18A:66-56.

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

Proposal Number: PRN 2015-055.

Submit comments by July 31, 2015, to:

Susanne Culliton
 Administrative Practice Officer
 Division of Pensions and Benefits
 PO Box 295
 Trenton, NJ 08625-0295
dpb.regulations@treas.nj.gov

The agency proposal follows:

Summary

The Board of Trustees of the Teachers' Pension and Annuity Fund (Board) is responsible for promulgating and reviewing the administrative rules within N.J.A.C. 17:3. When the Board becomes aware of a court decision or change in the law that could affect the Teachers' Pension and Annuity Fund (TPAF), the administrative rules are reviewed and, if changes are mandated, steps are taken to propose revisions to those rules so that they conform to the new statutes or court decisions. Additionally, the rules are periodically reviewed by the Board to ascertain whether current rules are necessary, cost efficient, reflect current procedures of the Division of Pension and Benefits (Division), and maintain qualified plan status in compliance with Federal IRS regulations. Finally, when the rules under N.J.A.C. 17:3 are about to expire, they must be reviewed and repromulgated.

Accordingly, the Board proposes to readopt the current rules within N.J.A.C. 17:3, which expire on October 18, 2015, pursuant to N.J.S.A. 52:14B-5.1.c(2) with the following amendments, repeals, and new rules. The rules proposed for readoption with amendments, repeals, and new rules reflect the requirements for administration, enrollment, contributions, retirements, withdrawals, purchases, and transfers within N.J.S.A. 18A:66-56.

Subchapter 1. Administration

The Board proposes to amend N.J.A.C. 17:3-1.1, Board meetings, so that the title for the manual of procedures for public meetings in subsection (c) is correctly cited as Robert's Rules of Order, rather than as Roberts' Rules of Order. The "Second Edition" reference is also proposed for update, as this manual is frequently updated and is now in its 11th edition.

The Board also proposes to amend subsection (a) of N.J.A.C. 17:3-1.3, Officers and committees, to include a citation of N.J.A.C. 17:1-1.1A and to change the incorrect citation of N.J.S.A. 52:18A-83 to 18A:66-61, as the election of a representative to the State Investment Council is set forth in both N.J.A.C. 17:1-1.1A and N.J.S.A. 52:18A-66-61. In addition, the "Pension System Actuary Selection Committee" is to be correctly referenced as the "Retirement Systems Actuary Selection Committee," as specified in N.J.S.A. 43:4B-1, rather than "43:4b-1." Furthermore, N.J.A.C. 17:3-1.3(b) is to be divided into two sentences, a change that is intended to improve the clarity of this subsection.

Amendments to N.J.A.C. 17:3-1.4, Election of member-trustee, are proposed, so that N.J.A.C. 17:3-1.4(b) states that members or retirees seeking to be candidates for the position of member-trustee must send written notice by March 1, rather than February 1, as current election procedures are more flexible and there are fewer time constraints for deadlines, so additional time can be granted for members to file. In addition, N.J.A.C. 17:3-1.4(c) is amended to state that candidates must comply with the residency requirements set forth in N.J.S.A. 52:14-7, known as the New Jersey First Act.

The Board proposes to amend N.J.A.C. 17:3-1.5(a) and (b). The information found in subsection (a) is outdated, so it is proposed for deletion, and subsection (b) is recodified as subsection (a) and amended, so that it begins with, "The certifying officer ..." This change accurately reflects current policy regarding the role of an employing location's certifying officer.

N.J.A.C. 17:3-1.6, Records, is amended to include the word "approved," so that it states the "approved minutes," as the minutes only become a matter of public record that can be inspected after they have been approved by the Board. Additionally, subsection (d) is proposed for deletion, as N.J.A.C. 17:1-1.2(c) in the general administration rules already covers the area addressed by this subsection.

N.J.A.C. 17:3-1.7, Appeal from Board decisions, is proposed for amendment to add a codification to the currently uncoded first paragraph, as a result the existing codified paragraphs of "(a)" through "(e)" are recodified as paragraphs (a)1 through 7. Recodified paragraph (a)2 is amended to add the clause "upon receipt of a member's written appeal," so that the process of appealing a decision made by the Board specifies that the Board will determine whether an administrative hearing will be granted only after the member's written appeal is received. An unnecessary end quotation mark is to be removed from recodified paragraph (a)5 and a new paragraph (a)6 is proposed, which will allow

the Director to grant time extensions, as needed, to render a final administrative decision when a member files a written appeal of a decision made by the Board. The proposed new paragraph will support current practices already in use by the Division.

The Board proposes to modify the age determination rule at N.J.A.C. 17:3-1.13. The section heading is changed to, "Age determination; contribution rate," rather than "[n]earest attained age; enrollment; retirement, as it encompasses the area of member contribution rate, as well as age determination; moreover, it will now apply to age determination for purchase, option selection, Option 1 reserve balance, and group life insurance benefits, as well as enrollment and other areas of retirement, so the words, "enrollment" and "retirement" are to be removed. This section is also being amended at subsection (a) for enrollments, and expanded through new subsections (b) through (e), respectively for service credit, retirement option selection, Option 1 reserve balance, and group life insurance benefits, so that it specifies how age will be determined for each of these significant aspects of membership in the Fund. The revisions reflect the current text adopted for the age determination rules governing the Public Employees' Retirement System (PERS) at N.J.A.C. 17:2-1.13, as promulgated in 2010. These rules have served the PERS effectively and efficiently in the area of age determination. Existing subsection (b) is proposed for deletion. To replace and update the historical member contribution rate information in existing subsection (b), which is proposed for deletion, new subsection (f) is proposed to provide information about the increases in the TPAF member contribution rate that have occurred since 2004. Under P.L. 2007, c. 92, and P.L. 2007, c. 103, the member contribution rate was initially increased to 5.5 percent in July of 2007. Later, P.L. 2011, c. 78, called for a one-percent increase in the member contribution rate in October of 2011, to 6.5 percent, as well as subsequent incremental increases in the contribution rate from July of 2012 until July of 2018, when the total pension contribution rate will stand at 7.5 percent of salary, under the provisions of N.J.S.A. 18A:66-29. Furthermore, proposed new subsection (g) specifies that for members enrolled in the fund prior to July 1, 2007, with no break in service after that date, the contribution rate is applied to the full pensionable salary, but only up to the current Federal ceiling on pensionable compensation under § 401(a)(17) of the Internal Revenue Code; however, for members who enroll (or enrolled) on or after July 1, 2007, proposed new subsection (h) stipulates that the contribution rate in effect is applied to the pensionable salary up to the maximum compensation limit for pension contributions, pursuant to the Federal Insurance Contributions Act and based on the annual maximum wage for Social Security deductions.

Subchapter 1A. Definitions

In Subchapter 1A, Definitions, the Board proposes to add "DCRP," to mean the Defined Contribution Retirement Program, as Fund members whose salary exceeds the maximum compensation limit for pension contributions, pursuant to the Federal Insurance Contributions Act, are now enrolled in the Defined Contribution Retirement Program for salary amounts exceeding that limit.

Subchapter 2. Enrollments

The Board proposes a number of changes to Subchapter 2, Enrollment, due to changes brought about by several different new laws governing this aspect of membership in the TPAF. At N.J.A.C. 17:3-2.1, the Board proposes modifications and additions to paragraph (a)3, reflecting recently established membership levels (also referred to as "tiers") that have different enrollment requirements according to a Fund member's enrollment date: Members who were eligible for enrollment prior to November 2, 2008, must meet the annual salary requirement of \$500.00 for the work year; the word, "work" is also being added to this paragraph to describe "year," so that it complies with the definition provided for "work year." Members who are eligible for enrollment between November 2, 2008 and May 21, 2010, must meet the minimum salary requirements pursuant to the provisions of P.L. 2008, c. 89, and N.J.S.A. 18A:66-4.b(3), which are subject to change each year. Finally, members with enrollment dates falling after May 21, 2010, are required to work a regular full-time schedule of 32 hours per week. Moreover, N.J.A.C. 17:3-2.1(a)3iv is proposed to stipulate that for breaks of service of two

years or more, a member will be reenrolled under a new TPAF account based on the member's date of eligibility for enrollment.

The phrase, "and meets all other requirements in subsection (a) above" is added to subsection (b), and subsections (c) and (d) are proposed for amendment with the words, "all of," the conditions or the requirements, respectively, to emphasize that prospective members must meet all enrollment eligibility requirements to enroll (or reenroll).

Proposed new N.J.A.C. 17:3-2.1(d)2 and 3 are added to reflect the enrollment changes brought about by P.L. 2008, c. 89, and N.J.S.A. 18A:66-4.b(4); namely, that the regular full-time schedule of 32 hours per week is now also required for teachers enrolled through employment at an accredited evening high school after May 21, 2010. N.J.A.C. 17:3-2.1(g) is proposed for amendment to specify that while the initial minimum base salary for enrollees between November 2, 2008 and May 21, 2010, was set at \$7,500, it is to be adjusted yearly, to reflect increases in the Consumer Price Index. Finally, "[f]or the calendar year beginning January 1, 2010," is revised to "... January 1, 2010, and each year thereafter," as the adjustment called for under N.J.S.A. 18A:66-4 shall be made beginning in 2010 and every year thereafter.

The Board proposes to amend N.J.A.C. 17:3-2.2, Documentation required, by amending the first sentence so that it begins, "If a person is appointed to a position that does not 'appear to' meet the eligibility requirements for membership in the Fund." As the sentence is currently written, it is contradictory, as an individual's position cannot be determined to be eligible if the position does not meet eligibility requirements for participation in the Fund.

The Board proposes to amend N.J.A.C. 17:3-2.3, Multiple enrollees. This revision is necessary because under N.J.S.A. 18A:66-19.1 and P.L. 2010, c. 1, employees who are eligible to enroll in the Fund after May 21, 2010, are no longer permitted to be enrolled by more than one TPAF participating employer as multiple members. In addition, members who enrolled on or before May 21, 2010, will not be allowed to continue as multiple members if they have a break in service or terminate employment in either position after May 21, 2010.

N.J.A.C. 17:3-2.4, Emergency or provision certificate, is proposed for amendment at subsection (a) to remove the reference to "part-time" positions, as enrollment in the Fund is no longer permitted for part-time employees.

The Board proposes to amend N.J.A.C. 17:3-2.7, Enrollment following deferred retirement, as the age at which a member's deferred retirement will take effect is now dependent on a member's enrollment date, under P.L. 2007, c. 92, P.L. 2007, c. 92, P.L. 2008, c. 89, P.L. 2010, c. 1, P.L. 2010, c. 3, and P.L. 2011, c. 78. For members whose enrollment date occurred before November 2, 2008, a deferred retirement will still take effect at age 60; however, for members whose enrollment date fell between November 2, 2008 and June 27, 2011, a deferred retirement becomes effective at age 62; and for members who enrolled in the TPAF on or after June 28, 2011, a deferred retirement takes effect at age 65. This means that the two-year window for a member's return to service after electing a deferred retirement still determines whether the member's original membership account remains in effect or whether the member will be enrolled under a new membership account; however, for members enrolled before November 2, 2008, the original membership account will continue if service is resumed within the two-year window prior to age 60; for members who enrolled between November 2, 2008 and June 27, 2011, the original membership account will continue if service is resumed within the two-year window prior to age 62; and for members who enrolled in the TPAF on or after June 28, 2011; the original membership account will recommence if service is resumed within the two-year window prior to age 65. Existing subsections (b) and (d) are proposed for deletion, as they will be replaced by the new subsections discussed above.

Subchapter 3. Insurance and Death Benefits

N.J.A.C. 17:3-3.1(a) is proposed for a technical amendment.

The Board proposes an amendment to N.J.A.C. 17:3-3.3, Contributory insurance rates, so that it states, "contributory group life insurance rate" instead of "contribution group life insurance rate."

The Board proposes to add new N.J.A.C. 17:3-3.6(c) and (d), so that the calculations for both the Option 1 reserve balance and the group life insurance benefit are clearly set forth in the rule. These calculations are

necessary for determining survivor benefits, so their inclusion is important.

The Board proposes to amend N.J.A.C. 17:3-3.12(b), so that it stipulates that multiple status is not permitted for those enrolling in the Fund after May 21, 2010.

The heading of N.J.A.C. 17:3-3.13 is amended, so that it clearly represents the topic that this section covers; namely, the benefits that are payable when a member dies with a retirement application pending. References to chapter laws in this section are also replaced by the specific statutes that govern this area. In addition, the first sentence of N.J.A.C. 17:3-3.13(a) is proposed for amendment to include the phrase, "upon the member's death," to clarify that this subsection applies only if a member passes away.

The Board proposes to amend N.J.A.C. 17:3-3.15, Suspension, so that it also stipulates that a member may convert "non-contributory" group life insurance coverage after 93 days.

Subchapter 4. Membership

The Board proposes to amend N.J.A.C. 17:3-4.1(b) by replacing "credibility" with "creditability," as the current use of credibility in subsection (b) is incorrect; since this section governs creditable compensation (compensation that is creditable) rather than credibility (believability), this change is necessary. In addition, the Board proposes to amend N.J.A.C. 17:3-4.1(j) by removing the passive voice, which makes this subsection clearer, and by replacing "school curriculum" with "member's contracted position," which will help prevent extra compensation from being added to a member's salary for duties that are actually part of his or her contracted position. Furthermore, N.J.A.C. 17:3-4.1(k) is proposed, which is intended to prevent employer contributions from being revised or refunded in cases where the Division determines that a denial of credit for increases in compensation is warranted. The verbiage reflects current Public Employees' Retirement System (PERS) rule at N.J.A.C. 17:2-4.1(h), which have served the PERS effectively and efficiently regarding this area.

The Board proposes to amend N.J.A.C. 17:3-4.6, so that it stipulates that no refunds or additional contributions will be made for amounts of \$50.00 or less, rather than for amounts of \$2.00 or less. This change reflects current procedures. In addition, the word "refunds" is to replace "rebates," and the phrase "upon death" is to be added, as this phrase specifies under what conditions this section applies. The sentence, "Unresolved differences of \$50.00 or less will be written off," is also added, to further clarify how refunds and additional contributions of \$50.00 or less are to be handled.

The Board proposes to add N.J.A.C. 17:3-4.9(b) and (c), so that the rule governing loans is more comprehensive and reflects adherence to the current Internal Revenue Code. N.J.A.C. 17:3-4.9(b) specifies how the loan interest rate and administrative fee are to be established, in accordance with N.J.S.A. 18A:66-35, while N.J.A.C. 17:3-4.9(c) articulates that all statutes governing pension loans at N.J.S.A. 18A:66-109.1 (loans carried into retirement) and N.J.A.C. 17:1-1.9 (bankruptcy and retirement) also apply.

N.J.A.C. 17:3-4.10, Waiver of retirement benefits upon withdrawal, is proposed for amendment to reflect changes in the normal age at which a member becomes eligible to retire under P.L. 2008, c. 89, P.L. 2010, c. 1 and c. 3, and P.L. 2011, c. 78. The normal retirement age for members of the Fund now depends on a member's date of enrollment, as established under the above laws. Members who are eligible to begin receiving a monthly retirement allowance but choose to withdraw from the Fund must still sign a "waiver of retirement benefits," as before; however, the age at which Fund members are required to sign a waiver of retirement benefits is now determined by a member's enrollment date: Those enrolled in the Fund prior to November 2, 2008 become eligible for retirement at age 60; those enrolled in the Fund between November 2, 2008 and June 27, 2011 become eligible for retirement at age 62; and members enroll(ed) in the Fund on or after June 28, 2011 become eligible to retire at age 65. Thus, under the proposed amendments to N.J.A.C. 17:3-4.10, members who decide to withdraw from the Fund must waive their right to retirement benefits, if they have at least 25 years of service and have reached the normal age for retirement specified under the law, according to their date of enrollment.

The Board proposes to amend N.J.A.C. 17:3-4.11, Termination; withdrawal, so that it requires members to use the Member Benefits' Online System (MBOS) to apply for a withdrawal via the Internet. Only those members who establish that they cannot access MBOS will be excepted from this requirement.

The Board proposes new N.J.A.C. 17:3-4.14, which states that pension contributions will be applied to a member's salary up to the maximum compensation limit established under P.L. 2007, c. 103, for members who enroll in the Fund on or after July 1, 2007. The maximum compensation limit for pension contributions under P.L. 2007, c. 103, is based upon the annual maximum wage contribution base for Social Security, and is subject to change each year. Members whose compensation exceeds the maximum compensation limit set under P.L. 2007, c. 103, will be enrolled in the Defined Contribution Retirement Program (DCRP), for compensation exceeding that amount. Finally, proposed new subsection (b) establishes that the salaries used to calculate retirement benefits under the Fund's rules are limited to the maximum compensation amounts that are in effect for the calendar years used.

Subchapter 5. Purchases and Eligible Service

A number of amendments are also needed in Subchapter 5, Purchases and eligible service. The Board proposes to amend N.J.A.C. 17:3-5.1, Eligibility for purchase, by amending subsection (b) and proposing new subsections (c) and (d). Paragraph (b) will now require members to apply for purchases using the Internet-based MBOS Purchase Application, while new subsections (c) and (d) establish conditions that will except members from using MBOS for purchases; namely, purchases of military service after enrollment under Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) provisions; and purchases of leaves of absence for union representation, respectively.

The Board proposes to amend N.J.A.C. 17:3-5.4, Compulsory contributions (back deductions), so that it specifies that pension contributions are to be made on salary up to the maximum compensation limit established under N.J.A.C. 17:3-4.14 and P.L. 2007, c. 103, for members enrolled on or after July 1, 2007.

The Board proposes to amend N.J.A.C. 17:3-5.5, Optional purchases of eligible service. New subparagraph (a)4iii is proposed to be added to include maternity leave as a type of leave of absence without pay that qualifies for purchase, and to stipulate that in cases where a maternity leave exceeds three months, this type of purchase will require a certification from a physician. New subparagraph (a)4iv is proposed to add that if a member resigns, terminates service, or returns to covered payroll, the leave is considered to have ended.

N.J.A.C. 17:3-5.5(b)2 is proposed for amendment to add the phrase, "provided the member is not receiving or eligible to receive a retirement benefit from the Federal retirement system for the same period of time," as purchases of U.S. government service will not be allowed if a member is receiving or can receive a retirement benefit from the Federal retirement system for the same period of service, as stipulated in N.J.S.A. 18A:66-13. Proposed new subparagraph (b)2i is added to specify that only New Jersey service can be used to qualify for an ordinary disability retirement, pursuant to N.J.S.A. 18A:66-39.b. No other type of government service can be used for this purpose. In addition, the Board proposes to add new subparagraph (b)2ii, which stipulates that for purchase applications received on or after November 2, 2008, purchases of U.S. government service and out-of-State service cannot be used to qualify for post-retirement medical benefits, in accordance with P.L. 2008, c. 89. Moreover, under proposed new paragraph (b)3, service established under a local municipal or county retirement system in New Jersey is proposed as an allowable type of optional purchase. As a result of the addition of the addition of new paragraph (b)3, the body of subsection (b) is proposed for amendment to include the new paragraph as part of the internal cross-reference.

Subchapter 6. Retirement

In Subchapter 6, Retirement, several important changes are being proposed. At N.J.A.C. 17:3-6.1(a), the Board proposes to make it a requirement that members submit their retirement applications online, through MBOS. The Board also proposes to amend this subsection to stipulate that applications may not be filed more than one year in

advance, unless the member is filing for a deferred retirement. In addition, subsection (a) is further amended to stipulates that multiple members enrolled on or before May 21, 2010, must retire from all covered positions before their retirement becomes effective—since multiple membership is not permitted for members who enroll after May 21, 2010, under N.J.S.A. 18A:66-4. Subsection (b) is proposed for amendment, so that when a retirement application is filed that is incomplete, the Board will allow members to have a window of 90 days to submit all additional information required for processing, or the application will expire; however, disability retirement applicants are given a window of six months for this purpose, pursuant to N.J.A.C. 17:1-7.10(a). This proposed amendment is intended to help prevent processing delays for extended periods, so that efficiency is increased.

Proposed new N.J.A.C. 17:3-6.1(c), stating that members who enroll in the Fund after May 21, 2010, are not eligible to apply for a disability retirement, although they may be eligible for disability insurance coverage, in accordance with N.J.S.A. 18A:66-39. The reference to chapter law in recodified subsection (d) and the general explanation of the new beneficiary benefit options under N.J.S.A. 18A:66-47 are proposed for deletion, since each option is explained explicitly in paragraphs (d)1 through 9. In addition, an incorrect statute citation, N.J.S.A. 43:15A-50, is to be replaced with the correct statute, N.J.S.A. 18A:66-47. Finally, recodified N.J.A.C. 17:3-6.1(d) is proposed for amendment to add the word "pension," so that it states, "once a member designates a 'pension' beneficiary, that beneficiary cannot be changed." This distinction is proposed because unlike pension beneficiaries, group life insurance beneficiaries can be altered after a member's retirement takes effect.

Recodified N.J.A.C. 17:3-6.1(f) is proposed for amendment to provide a more concise introduction for this subsection. Furthermore, recodified N.J.A.C. 17:3-6.1(f)1 and 2 are amended to use clearer language and to include a clause stating that the medical condition(s) described on the member's retirement application must correspond to the medical reports submitted in support of the member's retirement application; paragraph (f)1 is also amended to stipulate that for accidental disability retirements, only those disabilities associated with the purported traumatic event will be considered. In addition, new paragraph (f)3 is proposed to stipulate that the reason for terminating employment must be the medical conditions provided on the disability retirement; members who terminate employment for employer-initiated disciplinary action or for criminal or administrative charges leading to a settlement agreement that results in resignation or termination will be disqualified from disability retirement. New paragraph (f)3 also states that the member must be unable to perform his or her regular assigned duties and that the employer could not accommodate the disability. New paragraph (f)4 is proposed, which sets forth the specific circumstances under which a member who discontinues service may nonetheless be entitled to file for a disability retirement. Existing subsection (f) is to be relocated as new subsection (i), as explained below. Existing subsection (g) is proposed for amendment to explicitly state that a member may not file for any other type of disability retirement while the original disability application is pending. If the disability retirement benefit is denied, the member must submit a separate application for a subsequent date. However, a clause is to be added to existing subsection (h) stating that if a member is denied an accidental disability retirement but qualifies for an ordinary disability retirement based on the medical conditions identified on the accidental-disability application submitted, no additional application is required.

These proposed amendments are all needed to prevent abuses of the system. In particular, these amendments are intended to prevent members from "switching" conditions when their original disability retirement application is denied. Members whose disability retirement applications are denied by the Board based on the medical documentation submitted will have to submit a new prospective application and supporting medical documentation if they wish to seek a disability retirement for a condition not reflected in the original application. However, a member who is denied an accidental disability retirement but who qualifies for an ordinary disability retirement based on the original application is not required to submit a new application. Besides targeting pension fraud and abuse, this specific amendment will help to eliminate unnecessary processing and paperwork.

Proposed new subsection (i), which deals with a return to public employment and the issuance of pension checks at retirement, is relocated with amendments from existing subsection (f). When a member returns to public employment and membership eligibility requirements are the same for both positions (same membership tier), the member's new retirement benefit is currently combined with the original retirement benefit and paid in one monthly benefit check under the existing regulation; however, in cases where a member returns to public employment and is covered under different membership eligibility requirements (a different tier), the checks are not combined, therefore, the final two sentences are amended to reflect this change.

N.J.A.C. 17:3-6.3, Effective date; changes, is proposed for amendment to account for recent changes in the eligibility requirements for a deferred retirement. Specifically, the age at which a member's deferred retirement takes effect is now dependent on a member's enrollment date, under P.L. 2007, c. 92, P.L. 2007, c. 103, P.L. 2008, c. 89, P.L. 2010, c. 1, P.L. 2010, c. 1, and P.L. 2011, c. 78. For members whose enrollment occurred before November 2, 2008, a deferred retirement will still take effect at age 60; however, for members whose enrollment fell between November 2, 2008 and June 27, 2011, a deferred retirement becomes effective at age 62; and for members who enrolled in the TPAF on or after June 28, 2011, a deferred retirement takes effect at age 65. The proposed amendments are predicated on the changes in the eligibility requirements for a deferred retirement according to a member's enrollment date, pursuant to the recent pension reform laws cited above. The Board also proposes to amend subsection (a) so that it also cites N.J.A.C. 17:3-6.1, as that a cross-reference to that section is also needed to cover exceptions in this section.

The Board proposes to amend N.J.A.C. 17:3-6.4, Outstanding loan, by removing the chapter law reference that is provided and leaving only the statutory citation in paragraph (a)2.

The Board proposes to amend N.J.A.C. 17:3-6.7(a), Disability determination, by adding the phrase, "enrolled in the Fund before May 21, 2010," since members enrolled after May 21, 2010, will not be eligible to apply for a disability retirement. In addition, paragraph (a)2 is proposed for amendment to specify that a member must be physically or mentally incapacitated "at the time the member terminates employment and, therefore, should be retired." The intent of this amendment is to emphasize that disability retirements are reserved for members who are truly disabled; members who leave public service for a reason other than disability may not apply for disability retirement benefits at a future date, for the purpose of receiving heightened retirement benefits and State-paid health benefits after terminating service. Since the Division is in the process of amending the General Administration rules at N.J.A.C. 17:1-6, which in part apply to disability retirements, the Fund proposes to add new subsection (c) to emphasize that N.J.A.C. 17:1-6 is also in effect; new subsection (c) also supports N.J.A.C. 17:1-6 by stating that the receipt of a disability pension is conditioned on a member's honorable service, and that full or partial forfeiture of disability retirement benefits may be imposed when appropriate.

The Board proposes to amend N.J.A.C. 17:3-6.10, Involuntary disability application, by adding the phrase, "enrolled in the Fund before May 21, 2010," since like other disability retirements, involuntary disability retirements will not be available to members who enroll in the Fund on or after May 21, 2010.

The Board proposes to add N.J.A.C. 17:3-6.11 to reflect the changes in eligibility requirements and reductions that are currently in effect for an early retirement, as those qualifications are now based on a member's enrollment date, under P.L. 2007, c. 92, P.L. 2007, c. 103, P.L. 2008, c. 89, P.L. 2010, c. 1, P.L. 2010, c. 1, and P.L. 2011, c. 78. Members who have 25 or more years of service before age 60 and whose enrollment date is on or before July 1, 2007, may take an early retirement, with a pension reduction of $\frac{1}{4}$ of one percent for each month before the member turns age 55, if the member retires before age 55. Members who have 25 years of service before age 60 and whose enrollment date is after July 1, 2007 but before November 2, 2008, may take an early retirement, with a pension reduction of $\frac{1}{12}$ of one percent for each month under age 60 through age 55 if the member retires before age 60, and an additional reduction of $\frac{1}{4}$ of one percent for each month under age 55, if the member also retires before age 55. Members who have 25 or more years

of service before age 62 and whose enrollment date is on or after November 2, 2008 but before June 28, 2011, may take an early retirement, with a pension reduction of $\frac{1}{12}$ of one percent for each year under age 62 through age 55 if the member retires before age 62, and an additional pension reduction of $\frac{1}{4}$ of one percent per month for each year under age 55, if the member also retires before age 55. Members who have 25 or more years of service before age 65 and whose enrollment date is on or after June 28, 2011, may take an early retirement, with a pension reduction of $\frac{1}{4}$ of one percent per month for each month prior to the month when the member reaches age 65.

The Board proposes to amend N.J.A.C. 17:3-6.12, Service retirement; eligibility, as the eligibility requirements for a service retirement now depend on a member's enrollment date. Members whose enrollment date was before November 2, 2008, are eligible for a service retirement at age 60. Members whose enrollment date occurred between November 2, 2008 and May 21, 2010, become eligible for a service retirement at age 62. Members whose enrollment date occurs after May 21, 2010, become eligible for a service retirement at age 65.

At N.J.A.C. 17:3-6.13, the phrase "normal retirement" is proposed for deletion as 60 is not the "normal" retirement age for all members; the age at which a member can retire now depends upon a member's enrollment date.

An amendment is proposed at N.J.A.C. 17:3-6.14, Disability retiree; annual report, regarding forms that the Division may require from members who retire on a disability retirement and are subject to an earnings test. Namely, the Board proposes to add that the Division may require a disability retiree to complete and submit the Federal Form 4506-T, Request for Transcript of Tax Return, or his or her disability retirement benefits will be suspended.

The Board proposes to repeal N.J.A.C. 17:3-6.15, as the information in this section is proposed for incorporation into N.J.A.C. 17:3-6.1.

The Board proposes to amend N.J.A.C. 17:3-6.20(a) to reflect changes in the calculation of final compensation as required under, P.L. 2010, c. 1 and c. 3, and P.L. 2011, c. 78. These laws have changed the final compensation calculation for members enrolled after May 10, 2010, from a final 36-month average to a final 60-month average; or from a highest three fiscal years average to a highest five fiscal years average. If the member is a 10-month employee enrolled after May 10, 2010, final compensation will be based on a final 50-month average rather than a final 30-month average, or highest five fiscal years average rather than the highest three fiscal years average. For members enrolled in the Fund on or before May 10, 2010, final compensation calculations remain unchanged.

Existing N.J.A.C. 17:3-6.24, Part-time members, specifies that this section regarding benefits, service credit, and final compensation for part-time members of the Fund applies only to members enrolled before May 21, 2010. Under P.L. 2010, c. 1 and c. 3, employees who are otherwise eligible for enrollment after May 21, 2010, must also work a regular full-time schedule of 32 hours per week, in order to be eligible to enroll in the Fund. For enrollments after May 21, 2010, part-time employees do not qualify for enrollment, as set forth in proposed new N.J.A.C. 17:3-6.24(b), although they may be eligible to enroll in the Defined Contribution Retirement Program (DCRP).

Subchapter 7. Transfers

The Board proposes a number of amendments to Subchapter 7, Transfers. The first proposed amendment apply to N.J.A.C. 17:3-7.1, Honorable service; interfund transfers; State-administered retirement systems. Subsection (a) lays out certain provisions for "interfund" transfers of service credit — from one retirement system to another — in cases where the Board of a member's former system determines that all or a portion of the member's prior service was dishonorable. In such cases, the service credit that was deemed to be dishonorable may not be transferred to the system covering the member's new employment. The proposed amendments to subsection (a) clarify the rules for transferring service credit to another system in cases of dishonorable service. In addition, the Board proposes to amend N.J.A.C. 17:3-7.1(b) and (c), so that they specify that transfers apply to defined benefit plans only; in addition, present policy requires an "Interfund Transfer" but not an "Enrollment Application," so existing paragraph (c)1 is proposed for

amendment accordingly. Existing paragraphs (c)1 through 6 are proposed to be relocated and merged into existing subsection (b). Existing subsection (c) is proposed for amendment to reflect the relocation of the paragraphs and as indicated above. Finally, under subparagraph (c)5ii, the chapter law reference, P.L. 2001, c. 341 is proposed for deletion, as the statute governing this area is already cited in this subsection and is to be used in place of the chapter law citation. Moreover, the phrase, “unless the member is vested in the PERS” is proposed for deletion, as it does not apply in cases where a member’s account has expired and the member must enroll under a new account and membership level.

At subsection (a) of N.J.A.C. 17:3-7.2, Intrafund transfers; State-administered retirement systems, the clause, “or there was enough service credit to be eligible for a deferred retirement” is proposed for deletion, as it does not apply, due to the different membership levels in effect by date of enrollment.

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

Social Impact

The members, retirees, beneficiaries, and employers of the Teacher’s Pension and Annuity Fund rely on the efficient operation of the Fund to provide proper service credit, death benefits, retirement benefits, and information regarding individual accounts. The citizens of the State of New Jersey also rely on established protections that ensure that the Fund is administered efficiently, through rules that guard against pension fraud and abuse and a waste of taxpayer dollars. Fund members rely upon the presence and predictability of the rules, which guide the administration of their benefits, while citizens rely on the presence of regulations that minimize abuses within New Jersey’s public pension systems. The protections and guarantees that these rules afford both members and citizens mandate their continued existence.

The rules proposed for readoption with amendments, repeals, and new rules benefit members and citizens alike, as they help to ensure that members of the Fund receive the benefits that their membership guarantees. They also ensure that recently enacted laws are put into practice effectively and efficiently. Many of the proposed amendments and new rules are necessary to uphold recent pension reform laws, including P.L. 2008, c. 89, P.L. 2010, c. 1, P.L. 2010, c. 3, and P.L. 2011, c. 78. These laws have brought significant changes to deferred retirements, early retirements, service retirements, maximum compensation limits for pension contributions, normal retirement age, and other important areas of membership in the Fund. Therefore, the rules must be revised, in order to implement these important changes effectively. Other important changes include revisions to the rules that govern disability retirements. Many of these proposed changes are needed to help prevent pension fraud and abuse, since disability retirements are especially prone to exploitation, as they generally provide a higher retirement benefit than other retirement types, while also providing State-paid medical benefits in retirement, even when members do not have 25 years of service credited to their account. Other changes to the current disability retirement rules are needed to put recent laws affecting disability retirements into practice. For example, members who enroll in the Fund after May 21, 2010, are not eligible to apply for a disability retirement, under P.L. 2010, c. 3, so existing rules had to be amended accordingly.

The rules proposed for readoption with amendments, repeals, and new rules promote operational efficiency and hinder members who are not disabled from submitting disability retirement applications in order to obtain higher pension and health benefit. Therefore, they help to prevent pension abuse, while at the same time protect the benefits of members who become disabled and can no longer perform their job duties. In addition, the proposed amendments provide for the effective implementation of recent pension reform laws, while also clarifying important membership issues.

Economic Impact

The rules proposed for readoption with amendments, repeals, and new rules promote the effective and efficient administration of enrollments, retirements, transfers, purchases, withdrawals, and other areas of membership in the Fund. They uphold the laws governing the State-

administered retirements, especially in the area of recent pension reform. They will not impose any adverse economic effects on the public; in fact, they will have a positive economic impact by helping to prevent pension fraud and abuse, which will protect the pension systems and monies that are contributed to the pension systems by New Jersey taxpayers. While the proposed amendments and new rules may impose additional recordkeeping requirements, they will serve to preserve and improve the efficient administration and operation of New Jersey’s State-administered retirement systems by helping to prevent members who are ineligible for specific retirement benefits from collecting such benefits. The new and amended rules will also promote operational efficiency by upholding the maximum compensation limits established by recent pension laws, thereby curbing the bloating of benefits paid to public employees. Overall, the new and amended rules will help to put recent pension-reform laws into practice, while also helping to prevent pension fraud and promoting more effective and efficient operations in most areas of membership in the Fund.

Federal Standards Statement

The rules proposed for readoption with amendments, repeals, and new rules meet the applicable Federal standards, that is, 26 U.S.C. § 403(b). There are no other Federal standards applicable to the subject matter of this chapter.

Jobs Impact

Implementation of the rules proposed for readoption with amendments, repeals, and new rules will not result in the generation or loss of jobs. The Division invites any interested parties to submit any data or studies concerning the jobs impact of the rules proposed for readoption with amendments, repeals, and new rules with their written comments.

Agriculture Industry Impact

The rules proposed for readoption with amendments, repeals, and new rules will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

The rules of the State-administered retirement systems affect members, retirees, and survivors of the State-administered retirement systems. Thus, the rules proposed for readoption with amendments, repeals, and new rules do not impose any reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments, repeals, and new rules will have no impact on affordable housing in New Jersey, nor will they evoke a change in the average costs associated with housing, because the rules pertain to administration of the TPAF for members, retirees, and survivors of members and retirees.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, repeals, and new rules will not have any impact on the achievement of smart growth; nor will they evoke 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 pertain to administration of the TPAF for members, retirees, and survivors of members and retirees.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:3.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 17:3-1.8, 6.11, and 6.15.

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

SUBCHAPTER 1. ADMINISTRATION

17:3-1.1 Board meetings

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

(c) [The current rules within Roberts] **Robert’s** Rules of Order, [Second] **11th** Edition, [as well as future amendments thereto, are

adopted and] is incorporated herein by reference, **as amended and supplemented**, as the source to be used by the Board of the TPAF in the conduct of its monthly meetings.

17:3-1.3 Officers and committees

(a) The members of the Board shall elect a chairperson and vice chairperson from its membership for the forthcoming year at its regular meeting held in July. The members of the Board shall elect a representative to the State Investment Council pursuant to N.J.S.A. [52:18A-83] **18A:66-61 and N.J.A.C. 17:1-1.1A**. A representative to the [Pension] **Retirement** Systems Actuary Selection Committee, as provided for by N.J.S.A. 43:[4b-1]**4B-1**, shall be elected by the Board whenever the selection of a new actuary is needed.

(b) The chairperson of the Board shall preside at all meetings[, or in]. **In** the absence of the chairperson, the vice chairperson shall assume the chairperson's responsibilities. In the absence of the chairperson and vice chairperson, another member selected by the majority of the members in attendance will preside for that single meeting.

(c) (No change.)

(d) Pursuant to N.J.S.A. 18A:66-61, there shall be one standing committee, which is the Finance Committee. The Committee shall be appointed at the July Board meeting by the [chairperson elect] **chairperson-elect** for the forthcoming fiscal year. The [committee] **Committee** shall consist of three members, [of] who shall be elected members of the Board. The State Treasurer and the person designated to represent the Fund on the State Investment Council shall serve as members of the Finance Committee. The Finance Committee shall review all investment transactions and financial reports referred to it by the Secretary for presentation to the Board at its regular monthly meeting.

17:3-1.4 Election of member-trustee

(a) (No change.)

(b) Any member or retiree who wishes to be a candidate for the position of member-trustee shall send a written letter of interest to the Secretary of the Board by [February] **March 1** for the trustee member's term that expires the same year on December 31.

(c) To be eligible as a candidate for member-trustee, a person must [be a resident of the State of New Jersey] **comply with the requirements of the New Jersey First Act, N.J.S.A. 52:14-7, (which requires having a principal residence in New Jersey unless an exemption applies)** and must be employed in or retired from one of the counties of the group designated for electing a trustee that year, in accordance with (d) below.

(d)-(k) (No change.)

17:3-1.5 Certifying officer (employer)

[(a) The secretary of each local board of education shall be the certifying officer for the respective school district.]

[(b)] **(a)** The [secretary, as the] certifying officer[,] shall be responsible for the duties described by N.J.S.A. 18A:66-32 and all other duties relating to matters concerning the Fund.

Recodify existing (c) and (d) as **(b) and (c)** (No change in text.)

17:3-1.6 Records

(a) In the addition to the provisions of N.J.A.C. 17:1-1.2, the **approved** minutes of the Board are a matter of public record and may be inspected during regular business hours in the Office of the Board Secretary.

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

[(d) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the confidential use of the Board. The Division will release a copy of the examining physician's medical report to the member, the member's attorney or any person authorized by the member in writing to receive a copy of such report. A copy of the Board-appointed physician's medical report cannot be released until after the Board's initial determination. In no event will the report be released to any individual not authorized in writing to receive the report.]

Recodify existing (e) and (f) as **(d) and (e)** (No change in text.)

17:3-1.7 Appeal from Board decisions

(a) The following statement shall be incorporated in every written notice setting forth the Board's determination in a matter where such

determination is contrary to the claim made by the claimant or the claimant's legal representative:

[(a)] **1.** "If you disagree with the determination of the Board, you may appeal by submitting a written statement to the Board within 45 days after the date of written notice of the determination. The statement shall set forth in detail the reasons for your disagreement with the Board's determination and shall include any relevant documentation supporting your claim. If no such written statement is received within the 45-day period, the determination by the Board shall be final."

[(b)] **2.** [The] **Upon receipt of a member's written appeal**, the Board shall determine whether to grant an administrative hearing based upon the standards for a contested case hearing set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., **and 52:14F-1 et seq.**, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1[-1] et seq.

[(c)] **3.** Administrative hearings shall be conducted by the Office of Administrative Law pursuant to the provisions of N.J.S.A. 52:14B-1 et seq., **and 52:14F-1 et seq.**, and N.J.A.C. 1:1[-1].

[(d)] **4.** (No change in text.)

[(e)] **5.** If the granted appeal involves a question of facts, the Board shall submit the matter to the Office of Administrative Law.[**]

6. The Director of the Division of Pensions and Benefits is authorized to grant or deny requests to extend the time allowed for exceptions and replies, and to seek extension of the time for a Board to render a final administrative decision adopting, rejecting, or modifying an initial decision.

17:3-1.8 (Reserved)

17:3-1.13 [Nearest attained age; enrollment; retirement] **Age determination; contribution rate**

(a) [Members who are] **For purposes of enrollment, the age assigned to the applicant is based on the applicant's age on the date of enrollment. However, if the applicant is six months or more past [their] his or her most recent [birthdate at the time of enrollment or retirement will have their pension contribution rate and retirement factor based upon their age on their next] birthday, the assigned age for enrollment will be his or her age on his or her next birthday.**

[(b)] A flat five percent pension rate of contribution was enacted by P.L. 1994, c. 62 for all employees enrolled on or after July 1, 1994. For members enrolled prior to July 1, 1994 whose previous full rate of contributions was six percent or more, the five percent contribution rate became effective on July 1, 1995. For members enrolled prior to July 1, 1994 whose previous full rate of contributions was less than six percent, their rate of contributions became four percent on July 1, 1995 and then five percent on July 1, 1996. Effective January 1, 1998 the rate of contribution became four and one-half percent. Pursuant to the provisions of P.L. 2001, c. 133 the contribution rate as of January 1, 2002 was reduced temporarily, to three percent. Effective January 1, 2004 the rate of contribution was returned to five percent. This rate is subject to change based on the Treasurer's determination in accordance with N.J.S.A. 18A:66-18b.]

(b) For purposes of purchasing additional service credit, the age used to determine the applicable actuarial factor is based on the applicant's age on the date the purchase request is received by the Division. However, if on that date the applicant is six months or more past his or her birthday, the purchase actuarial factor will be based upon the applicant's age on his or her next birthday.

(c) For purposes of calculating a retirement option selection, the age used to determine the applicable actuarial reduction factor is based upon the ages of the member and designated beneficiary (or beneficiaries) on the effective date of retirement. If on that date, the age of either the member or the designated beneficiary (or beneficiaries) is six months or more past that individual's birthday, the age used for the option selection will be based upon that individual's age on his or her next birthday.

(d) For purposes of calculating an Option 1 reserve balance upon the death of a retired member, when a beneficiary elects (or beneficiaries elect) an annuity certain (specified number of years) or a life annuity, the applicable factor is based upon the age of the beneficiary (or beneficiaries) at the time of the member's death. If that age is six months or more past the birthday of the named

beneficiary (or beneficiaries), the factor is based upon the age of the beneficiary or beneficiaries on the next birthday attained.

(e) For purposes of calculating the group life insurance benefits upon the death of an active employee when the beneficiary elects (or beneficiaries elect) an annuity certain (specified number of years) or a life annuity, the applicable factor is based upon the age of the beneficiary (or beneficiaries) at the time of the member's death. The factor is based solely on the age of the beneficiary (or beneficiaries) at the time of the member's death; it is not rounded up to the next birthday.

(f) Pursuant to N.J.S.A. 18A:66-29, the full contribution rate was increased from five percent to 5.5 percent of salary in July of 2007. In October of 2011, the contribution rate was increased to 6.5 percent of salary, with an additional increase of one percent phased in through seven increments from July 2012 until July 2018, when the total pension contribution rate reaches 7.5 percent of salary.

(g) For members who enrolled in the Fund prior to July 1, 2007, the contribution rate in effect is applied to the full pensionable salary, up to the current Federal ceiling on pensionable compensation under section 401(a)(17) of the Internal Revenue Code.

(h) For members who enroll (or enrolled) on or after July 1, 2007, the contribution rate in effect is applied to the pensionable salary up to the maximum compensation limit for pension contributions, pursuant to the Federal Insurance Contributions Act and based on the annual maximum wage for Social Security deductions.

SUBCHAPTER 1A. DEFINITIONS

17:3-1A.1 Definitions

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

...
“DCRP” means the Defined Contribution Retirement Program.
 ...

SUBCHAPTER 2. ENROLLMENT

17:3-2.1 Enrollment eligibility

(a) Any person appointed by the State, local board of education, or charter school to a position listed in the definition of “teacher” found at N.J.S.A. 18A:66-[2(p)]2.p or as a regular, full-time [or part-time] employee in a position that meets the following conditions shall be required to become a member of the Fund effective as of the date of their employment:

1.-2. (No change.)

3. Salary requirements and full-time weekly work hours to qualify for enrollment are met, based on the date of eligibility for enrollment:

[3.] i. [Prior] If eligibility for enrollment began prior to November 2, 2008, the minimum salary requirement for the position is \$500.00 or more within a work year[.];

ii. If eligibility for enrollment began between November 2, 2008 and May 21, 2010, the position must meet the minimum salary requirements pursuant to the provisions of N.J.S.A. 18A:66-4.b(3), as provided in (g) below;

iii. If eligibility for enrollment began after May 21, 2010, regular full-time hours of 32 hours per week are required for enrollment, pursuant to the provisions of N.J.S.A. 18A:66-4.b(4); or

iv. If a break in a member's service occurs and it has been more than two consecutive years since that member's last pension contribution, reenrollment will occur based on the date of eligibility for enrollment, in accordance with (a)3i, ii, or iii above.

(b) An employee in an unclassified administrative position within the State Department of Education who possesses a valid certificate issued by the State Board of Examiners, pursuant to N.J.S.A. 18A:6-34 et seq. and N.J.A.C. 6A:9, and meets all other requirements in (a) above, is eligible for participation in the Fund.

(c) An employee meeting all of the conditions stipulated in (a) above who is paid on an hourly or per diem basis is eligible for membership in the Fund.

(d) Any person meeting all of the requirements of (a) above, who is appointed to a regular full-time [or part-time] position in an accredited evening high school or vocational school after September 1, 1989, shall be eligible for enrollment in the Fund with the following limitation. Individuals teaching at a vocational school may substitute the directly applicable “occupational license” as required by the Department of Education for the certification stipulated in (a)1 above.

1. (No change.)

2. Between September 1, 1989 and May 21, 2010, individuals appointed to both regular full-time and part-time positions in accredited evening high schools, as determined by the State Board of Education, were eligible for enrollment in the Fund.

3. After May 21, 2010, only individuals appointed to regular full-time positions (working at least 32 hours per week) in accredited evening high schools, as determined by the State Board of Education, are eligible for enrollment in the Fund.

(e)-(f) (No change.)

(g) Pursuant to the provisions of N.J.S.A. 18A:66-4, for individuals who became members of the TPAF [on or after] between November 2, 2008 and May 21, 2010, the [\$7,500] minimum annual base salary for participation in the retirement system initially set at \$7,500, shall be adjusted annually by the Director of the Division in accordance with changes in the Consumer Price Index, but by no more than four percent. For the calendar year beginning January 1, 2010 and each year thereafter, the minimum base annual salary required for enrollment will be adjusted annually to reflect increases in the Consumer Price Index. For purposes of this calculation, “Consumer Price Index” means the average of the annual increase in the consumer price index for all urban consumers, not seasonally adjusted for all items, in the New York City and Philadelphia metropolitan statistical areas during the preceding calendar year as reported by the United States Department of Labor, Bureau of Labor Statistics.

1.-4. (No change.)

(h) (No change.)

17:3-2.2 Documentation required

If a person is appointed to a position[, which] that does not appear to meet the eligibility requirements for membership in the Fund, as specified in N.J.A.C. 17:3-2.1, the position shall be referred to the Board for [their] its determination as to the person's eligibility for participation in the Fund. In order to determine such person's eligibility for enrollment, the employer shall be required to support the enrollment application with a statement setting forth the duties, qualifications, tenure rights, and State Board of Examiners' Certification requirements of the position.

17:3-2.3 Multiple enrollees

(a) A multiple enrollee is a member who is employed by more than one TPAF participating employer at the same time; each of the member's TPAF-participating employers shall report to the Fund about that member. Pursuant to the provisions of N.J.S.A. 18A:66-19.1, multiple enrollments are not permitted for any member who enrolls or enrolled in the Fund after May 21, 2010, and for any member who enrolled in the Fund on or before May 21, 2010, who had a pension reporting period without pay (break in service) after May 21, 2010.

(b) [A] For TPAF enrollments that occurred on or before May 21, 2010, a “teacher” employed in two or more positions that [meet] met the eligibility requirements for enrollment in the Fund, as stated in N.J.A.C. 17:3-2.1 [must], was required to enroll in the Fund through each of the positions. If a break in service or termination of employment occurs in either position after May 21, 2010, multiple enrollment is no longer permitted.

17:3-2.4 Emergency or provisional certificate

(a) Any teacher employed under an emergency or provisional certificate, who is appointed to a regular full-time [or part-time] position under contract, shall be eligible for enrollment as of the date of employment.

(b) (No change.)

17:3-2.7 Enrollment following deferred retirement

(a) For a member [who has] enrolled in the retirement system prior to November 2, 2008, **who elects a deferred retirement:**

1. If the member resumes regular service prior to age 60 and within the two-year period stipulated by N.J.S.A. 18A:66-7(a) or the longer period provided by N.J.S.A. 18A:66-8.a, the membership account under which [a] the member elected a deferred retirement [who resumes regular service prior to age 60] shall be continued [provided].

2. If the member [returns to] resumes regular service [within] prior to age 60, but after the [two-year] period for continued membership stipulated by N.J.S.A. 18A:66-7(a) or [the longer period provided by N.J.S.A. 18:66-8(a)] 8.a has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.

[(b) Should a member who has enrolled in the retirement system prior to November 2, 2008, and who elects a deferred retirement resume regular service prior to age 60 after the period for continued membership stipulated by N.J.S.A. 18A:66-7(a) or 8(a) has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.]

[(c) (b) For a member [who has] enrolled in the retirement system on or after November 2, 2008, [the membership account under which a member elected deferred retirement who] **but prior to June 28, 2011, who elects a deferred retirement:**

1. If the member resumes regular service prior to age 62 [shall be continued provided the member returns to service] and within the two-year period stipulated by N.J.S.A. 18A:66-7(a), or the longer period provided by N.J.S.A. 18A:66-8(a),]8, the membership account under which the member elected a deferred retirement shall be continued.

2. If the member resumes regular service prior to age 62, but after the period for continued membership stipulated by N.J.S.A. 18A:66-7(a) or 8.a has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.

[(d) Should a member who has enrolled in the retirement system on or after November 2, 2008, and who elected a deferred retirement, resume regular service prior to age 62 after the period for continued membership stipulated by N.J.S.A. 18A:66-7(a) or 8(a) has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.]

(c) For a member enrolled in the retirement system on or after June 28, 2011, who elects a deferred retirement:

1. If the member resumes regular service prior to age 65 and within the two-year period stipulated by N.J.S.A. 18A:66-7(a) or the longer period provided by N.J.S.A. 18A:66-8.a, the membership account under which a member elected deferred retirement shall be continued.

2. If the member resumes regular service prior to age 65, but after the period for continued membership stipulated by N.J.S.A. 18A:66-7(a) or 8.a has expired, then such member shall be enrolled in the retirement system under a new membership account and shall be subject to such benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment.

[(e) (d) In the event that [either (b) or (d)] (a)2, (b)2, or (c)2 above applies, the member may elect to transfer all service credit associated with the previously vested membership to the new membership account and such service credit will be subject to the benefits and requirements as shall apply to new members of the retirement system as of the date of such new enrollment. Should the member elect not to transfer the service credit associated with the vested membership to the new membership account, no benefits shall be payable from the previous application for

deferred retirement until such time as the member has terminated all [TPAF eligible] **TPAF-eligible** employment.

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:3-3.1 Compulsory and optional enrollment

(a) For the purpose of contributory insurance, all compulsory enrollees[, including veterans,] under age 60 at the time their enrollment application is filed, **including veterans**, shall be required to participate in the contributory insurance program for one year (12 calendar months) from the date of enrollment, or the effective date of insurance premium deduction, whichever is later. Proof of insurability shall be required for all compulsory and optional enrollees, age 60 and older, at the time their enrollment application is filed with the Division, in order to qualify for noncontributory and contributory insurance coverage.

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

17:3-3.3 Contributory insurance rate

Effective January 1, 1980, the [contribution] **contributory** group life insurance rate of contribution for all participating members shall be 4/10 of one percent (.004) of the member's base or contractual salary.

17:3-3.6 Survivor benefits

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

(c) In calculating an Option 1 reserve balance upon the death of a retired member, when a beneficiary elects an annuity certain (specified number of years) or a life annuity, the applicable factor is based upon the beneficiary's age at the time of the member's death. If a beneficiary is six months or more past his or her birthday, the factor is based upon the beneficiary's age on his or her next birthday.

(d) In calculating the group life insurance benefits upon the death of an active employee when a beneficiary elects an annuity certain (specified number of years) or a life annuity, the applicable factor is based upon the beneficiary's age at the time of the member's death. The factor is based solely on the beneficiary's age at the time of the member's death and is not rounded up to the next birthday.

17:3-3.8 Withdrawal and return, contributory insurance, and conversion

(a) Withdrawal from contributory insurance coverage shall apply only to the membership account under which the cancellation was exercised. Any person[,] who has canceled contributory insurance coverage and withdraws from membership in the Fund, shall, upon subsequent re-enrollment in the Fund, be subject to the provisions of N.J.A.C. 17:3-3.1.

(b) (No change.)

17:3-3.12 Beneficiary designation; pension contributions

(a) (No change.)

(b) When a member establishes multiple status by becoming employed by one or more additional employers in an eligible position or positions and files an enrollment application, the beneficiaries designated on the most recently submitted enrollment application supersede any older designations of beneficiaries on file with the Division. **However, pursuant to the provisions of N.J.S.A. 18A:66-19.1, multiple status is not permitted for those enrolling in the Fund after May 21, 2010.**

(c) (No change.)

17:3-3.13 Benefits payable [under P.L. 1984, c. 96, as amended by P.L. 1995, c. 221] when a member dies with a retirement application pending

(a) [For the purposes of P.L. 1984, c. 96, section 1, as amended by P.L. 1995, c. 221, section 2, (] Pursuant to N.J.S.A. 18A:66-47[)] and **18A:66-47.3**, the person designated as the beneficiary of an optional settlement on the retirement application may request, **upon the member's death**, that a retirement become effective and that a selection of an optional settlement be made as authorized by the law. If there is no designated beneficiary for an optional settlement, the person designated as the beneficiary to receive the return of contributions or unpaid benefits due to a retiree at the date of death may make this request. If a beneficiary requests that an optional settlement be made, the death benefits payable on behalf of the member shall be the death benefits payable on behalf of a member who dies after retirement as otherwise

provided in the TPAF Act, N.J.S.A. 18A:66-1 through 93, as amended and supplemented.

(b) Where a beneficiary of a member requests that a retirement take effect and that a selection of an optional settlement be made as authorized under [P.L. 1984, c. 96, section 1, as amended by P.L. 1995, c. 221, section 2, (N.J.S.A. 18A:66-47)], an additional amount of insurance, not to exceed the amount of insurance that could be converted under the group policies for noncontributory and contributory death benefits, shall be paid as claims under the group policies only if the member files an application for conversion of the insurance upon retirement as provided under N.J.S.A. 18A:66-79 and pays the initial premium for the converted insurance. The premiums paid for the converted insurance shall be retained by the carrier and be applied to the premiums payable by the State and the Fund for benefits provided under the group policies.

17:3-3.15 Suspension

A member suspended without pay will have noncontributory life insurance coverage continued for a period of 93 days following the effective date of such suspension. A member will not be covered by contributory life insurance during a suspension without pay, but may convert the contributory insurance prior to 31 days after the effective date of the suspension. **After 93 days, the member may also convert the non-contributory group life insurance coverage.**

SUBCHAPTER 4. MEMBERSHIP

17:3-4.1 Creditable compensation

(a) (No change.)

(b) The Board may question the compensation of any member or retiree to determine its [credibility] **creditability**, where there is evidence that compensation reported as base salary may include extra compensation.

(c) (No change.)

(d) With respect to all claims for benefits, the Division shall investigate increases in compensation reported for credit[, which] **that** exceed the reasonably anticipated annual compensation increases for members of the Fund based upon either the increase in the Consumer Price Index for the time period of the increases and the table of assumed salary increases recommended by the actuary and adopted by the Board or based on the averages of the regular increases in the employees' compensation preceding the periods in which the extra compensation was received. Those cases where a violation of the statute or rules is suspected shall be referred to the Board.

(e)-(i) (No change.)

(j) [A] **The Board may consider** a stipend [may be considered credible] **as creditable** compensation and subject to pension deductions for retirement credit, if it:

1. (No change.)

2. Represents duties not addressed in base compensation that are integral to the effective functioning of the [school curriculum] **member's contracted position.**

(k) Employer contributions shall not be revised or refunded because of a determination by the Division that a denial of credit for increases in compensation is warranted under this section.

17:3-4.6 Minimum adjustment

In order to facilitate the reconciliation of a member's account **upon death**, no [rebates] **refunds** or additional contributions shall be made where an adjustment involves an amount of [\$2.00] **\$50.00** or less during a calendar quarter. **Unresolved differences of \$50.00 or less will be written off.**

17:3-4.8 Military leave prior to August 1, 1974

(a) [Military] **For military** leave, prior to August 1, 1974, contributions remitted by an employer on behalf of an employee, who does not return to the payroll for the minimum 90-day period required by N.J.S.A. 18A:66-34, shall be retained by the Fund. Such contributions shall be transferred from the Annuity Savings Fund to the Contingent Reserve Fund. Military leave contributions remitted by an employer shall be based on the employee's salary at the time the member entered military service.

(b) (No change.)

17:3-4.9 Eligibility for loan

(a) Only active contributing members of the Fund may exercise the privilege of obtaining a loan. The member's total outstanding loan balance shall not exceed the lesser of 50 percent of the accumulated deductions posted to the member's account or \$50,000. The loan is subject to I.R.C. [§72(p)] **§ 72(p)** (2007) of the Internal Revenue Code.

(b) The rate of interest per annum for loans from the State-administered retirement systems shall be a commercially reasonable rate as required by the Internal Revenue Code to be determined by the State Treasurer on January 1 of each calendar year. An administrative fee in an amount set by the State Treasurer for each calendar year may be charged for any loan requested, pursuant to N.J.S.A. 18A:66-35.

(c) All other statutes and rules governing loans apply, including N.J.S.A. 18A:66-109.1 and N.J.A.C. 17:1-1.9, Bankruptcy; subsequent loans.

17:3-4.10 Waiver of retirement benefits upon withdrawal

Any member[,] who makes application for withdrawal from the Fund[,] **and** who may otherwise be eligible to make application for retirement benefits, shall be required to execute and file a statement with the Fund setting forth the benefits the member is waiving in favor of withdrawal, before the application for withdrawal may be processed. If a member is eligible to begin receiving a monthly retirement allowance (age 60 or more, or 25 years or more of credited service **for members who enrolled before November 2, 2008; or age 62 or more or 25 years or more of credited service for members who enrolled between November 2, 2008 and June 27, 2011; or age 65 or more or 25 years of credited service for members who enrolled on or after June 28, 2011**), the Division shall inform the member of the estimated amount of the retirement allowance and shall require the member to sign a waiver of such benefits, should the member still wish to withdraw.

17:3-4.11 Termination; withdrawal

(a) (No change.)

(b) To effect a withdrawal, members are required to submit withdrawal applications over the Internet, using a secure account established by the member through the Division's Member Benefits Online System (MBOS). For members who establish that they cannot submit a withdrawal application online, a paper Application for Withdrawal will be accepted.

[(b)] (c) (No change in text.)

17:3-4.14 Maximum compensation limit for pension contributions based upon annual maximum wage contribution base for Social Security

(a) Members who enrolled on or after July 1, 2007, are subject to a maximum compensation limit for pension contributions. The maximum compensation limit is based on the annual maximum wage contribution base for Social Security, which is subject to change each calendar year. Compensation above the maximum will be subject to Defined Contribution Retirement Program (DCRP) statutes and rules, including, but not limited to, N.J.S.A. 43:15C-1 et seq., and N.J.A.C. 17:6.

(b) Members enrolled in TPAF who also participate in the DCRP based on (a) above will receive service credit in their corresponding TPAF account, and will be eligible to retire under the rules of the TPAF. The salaries used in the calculation of the retirement benefits are limited to the maximum compensation amounts in effect when the salary is earned.

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

17:3-5.1 Eligibility for purchase

(a) (No change.)

(b) In order to be eligible to purchase service, a member must submit a request to purchase service [and such] **over the Internet, through a secure account established by the member and using the Purchase Application program of the Member Benefits Online System (MBOS). The member will subsequently receive a letter from the Division quoting the terms of the purchase. Such purchase must be authorized by the member before the expiration date indicated on the**

letter[, which quotes the terms of the purchase]. If the Purchase Cost Quotation expires prior to authorization and subsequently the member requests the purchase of such service, the purchase cost will be subject to recalculation based upon all cost factors in effect at the time of the new request.

(c) The Division will make an exception to the MBOS Purchase Application requirement and accept a Purchase Application in printed form under the following circumstances only:

1. A member is applying to purchase military service after enrollment under the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

2. A member is applying to purchase a leave of absence for union representation, as this type of purchase must be purchased quarterly.

(d) If a member's Purchase Application is denied, the member may subsequently resolve the reason for the denial and resubmit the purchase request to the Division. The purchase cost will be recalculated based on all cost factors in effect at the time of the resubmitted purchase request.

[(c)] (e) (No change in text.)

17:3-5.4 Compulsory contributions (back deductions)

An employee who was required to enroll and whose application was filed beyond [the] **his or her** compulsory date of enrollment[,] will be required to make retroactive contributions to the date of compulsory enrollment. Contributions will be calculated on the basis of the member's current salary at the current pension rate of contribution assigned as of [the] **his or her** compulsory date of enrollment with regular interest. **For members enrolled on or after July 1, 2007, the member's salary for each calendar year will be limited by the maximum compensation as determined by N.J.A.C. 17:3-4.14.**

17:3-5.5 Optional purchases of eligible service

(a) A shared-cost purchase is one in which the member pays only the employee's share and not the employer's share of the purchase. A member may purchase all or a portion of such eligible service. A shared-cost purchase shall be calculated on the basis of the actuarial purchase factor established for the member's age at the time of the purchase request times the higher of either the member's current annual base salary or highest fiscal year base salary. The following types of purchases are shared-cost purchases:

1.-2. (No change.)

3. Continuous temporary service without interruption or substitute service as a teacher immediately preceding enrollment is eligible for purchase provided the following conditions are met:

i. (No change.)

ii. Substitute service is eligible for purchase provided the employment immediately precedes enrollment in TPAF. Immediately preceding enrollment is defined as employment rendered the month or biweekly pay period, prior to the date of enrollment. The period(s) of substitute service that a member can request to purchase must meet the following criteria:

(1)-(2) (No change.)

(3) When more than one year of substitute service is requested for purchase, each year of substitute service rendered prior to enrollment is reviewed and each year is required to meet the criteria set forth under the provisions of (a)3ii(1) above[.];

4. Leaves of absence without pay:

i.-ii. (No change.)

iii. **Maternity leave is considered personal illness. Absent physician certification, three months is the maximum period of purchase for maternity leave. A certification from a physician that a member was disabled due to pregnancy and resulted in a disability for the period in excess of three months is required for maternity leave in excess of three months. The birth of a child constitutes the start of child care leave of absence immediately following maternity; and**

iv. **A leave of absence shall be deemed to have ended upon resignation, termination, or return to covered payroll;**

5.-7. (No change.)

(b) The types of purchases indicated in (b)1 [and], 2, and 3 below are considered to be full-cost purchases. A member may purchase all, or a portion of, such eligible service. The lump sum purchase cost shall be calculated on the basis of the actuarial purchase factor established for the

member's nearest age at the time of the purchase request times the higher of either the member's current annual base salary or highest fiscal year base salary. The computed lump sum purchase cost will then be doubled to establish the full cost to the member. This cost is calculated in this manner as N.J.S.A. 18A:66-13 provides that the employer shall not be liable for any costs of purchasing this service; therefore, the member must pay both the employee and employer share.

1. Active duty military service prior to enrollment[.]; Active military service[.] that is eligible for purchase[.] means honorable full-time duty in the active military service of the United States, which is the same as the Federal definition found at 10 U.S.C. [§101] § 101. Such term includes full-time training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. It does not include periods of service of less than 30 days, weekend drills, or annual summer training of a national guard or reserve unit, nor does it include periods when the member was on-call. It also does not include time spent in the Reserved Officers Training Corps or as a cadet or midshipman at one of the service academies. Military service before enrollment cannot be used to qualify for an ordinary disability retirement; and

2. Employment with the Federal government[. Pursuant to N.J.S.A. 18A:66-39(b) U.S. Government service cannot be used to qualify for an ordinary disability retirement.], **provided the member is not receiving or eligible to receive a retirement benefit from the Federal retirement system for the same period of time, pursuant to N.J.S.A. 18A:66-13.**

i. **Pursuant to N.J.S.A. 18A:66-39.b, only New Jersey service may be used to qualify for an ordinary disability retirement. No other government service may be used for this purpose.**

ii. **For purchase applications received November 2, 2008 or later, U.S. government purchases, military purchases, and out-of-State purchases cannot be used to qualify for post-retirement medical benefits.**

3. Service established under a local municipal or county retirement system within the State of New Jersey.

(c)-(d) (No change.)

17:3-5.6 Methods of payment

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

(c) Lump sum payments and partial lump sum payments can include the direct rollover of transfer of tax-deferred contributions from financial plans that qualify under terms specified under [I.R.C. §401(a)(31)] § 401(a)(31) (2007) of the Internal Revenue [Service] Code. All payments remitted to the Division must be accompanied by a properly completed Direct Rollover/Trustee-to-Trustee Transfer of Funds for the Purchase of Additional Service Credit form. Checks remitted to the Division without the required forms shall be returned to the member. A lump sum rollover payment for a purchase cannot exceed the lump sum cost of that purchase. Checks in an amount greater than the lump sum cost of the purchase shall be returned to the member.

SUBCHAPTER 6. RETIREMENT

17:3-6.1 Applications

(a) Applications for retirement must be made [on] **over the Internet, using the online forms required by the Fund through a member's secure account established through the Member Benefits Online System (MBOS).** Such forms must be completed in all respects and filed with the Division on or before the requested date of retirement. **Applications for retirement can be filed no more than one year in advance, except that a member whose TPAF-eligible employment has ended may file for deferred retirement at any time after the employment has ended.** A member's retirement application becomes effective on the first of the month following receipt of the application unless a future date is requested. Members enrolled at multiple TPAF locations **on or before May 21, 2010, who have not had a pension reporting period without pay (break in service) after May 21, 2010, pursuant to the provisions of N.J.S.A. 18A:66-4,** must retire from employment in all covered positions before a retirement shall become effective.

(b) [In] **Except for a disability retirement application, in the event a member files an incomplete application, [the] all deficiencies shall be**

brought to the member's attention and the member shall be required to [file a completed application with the Division] **provide the additional information within 90 days** to enable processing. **If there is no response within the 90-day time frame, the application will expire and the member will be required to refile, pursuant to the requirements set forth in (a) above. This subsection shall not apply to information required to be provided by the employer.**

(c) A member who enrolls in the Fund after May 21, 2010, is not eligible to apply for a disability retirement, pursuant to N.J.S.A. 18A:66-39. Instead, the member may be eligible for disability insurance coverage.

[(c)] (d) A member shall, on the retirement application, select one of nine ways (options) to receive retirement benefits. Each option provides the member with a lifetime monthly retirement benefit. Once a retirement benefit becomes due and payable as defined by N.J.A.C. 17:3-6.2, the option cannot be changed. Except under the Maximum Option and Option 1, once a member designates a **pension** beneficiary, that beneficiary cannot be changed. [P.L. 2001, c. 120 provides for additional payment options that allow the member to choose an actuarially reduced retirement allowance in order to provide a beneficiary with an allowance equivalent to the full amount, three-quarters, one-half or one-quarter of the reduced allowance. If the beneficiary dies before the retiree, the retiree's allowance will increase to the maximum amount. These additional payment options shall be known as Options A, B, C, and D as defined below.] The options, as established by N.J.S.A. [43:15A-50] **18A:66-47**, include the following:

1.-9. (No change.)

[(d)] (e) (No change in text.)

[(e)] (f) In addition to the requirements in (a) through **[(d)] (e)** above, **the following shall apply when an application for disability retirement is filed:**

1. An application for a physical disability retirement must be supported by at least two reports[, one]. **One must be provided** by the member's personal or attending physician and the other may [be either] **consist of** hospital records supporting the **claim of** disability or a report from a second physician; [and] **the medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application. Further, in the case of a member filing for an accidental disability retirement, only those disabilities associated with the purportedly-disabling event shall be considered. If the member is denied an accidental disability retirement application but qualifies for an ordinary disability retirement based on the original accidental-disability application, no additional application need be filed, pursuant to (h) below.**

2. An application for a mental health medical disability retirement must be supported by at least two medical reports[, one]. **One must be provided** by the member's personal or attending psychiatrist or psychologist and the other [in the form] **may consist of** either hospital records supporting the **claim of** disability or a report from a second psychiatrist or psychologist or from the member's personal or attending physician or licensed clinical social worker. **The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application.**

3. **To qualify for disability retirement, a member must be unable to perform his or her regular and assigned duties due to a permanently-disabling medical condition present at the time of application, as a result of which disabling condition the member should be retired. Upon request, an applicant shall demonstrate that a reasonable request for accommodation of a disability was requested from the employer and the disability could not be accommodated. Termination of employment, voluntary or involuntary, that was caused by any reason other than the claimed disability disqualifies a member from disability retirement. A member whose employment ended after his or her employer initiated disciplinary action, or who was the subject of criminal or administrative charges or party to a settlement resulting in resignation or termination, is considered to have separated from service as a result of the employer action,**

charges, or settlement, and not due to a disability, unless the action, charges, or settlement is shown to be a result of the disability.

4. **Under certain circumstances, members who have discontinued service may be entitled to file for disability retirement. Following the filing of a disability retirement application, a vested member enrolled prior to May 21, 2010, who has not withdrawn contributions from the retirement system, and has discontinued service for more than two consecutive years, and who was otherwise eligible for disability retirement at the time service was discontinued, shall be approved to receive disability retirement benefits by the Board, if:**

i. **The applicant demonstrates to the satisfaction of the Board that the applicant was physically or mentally incapacitated for the performance of duty at the time service was discontinued, and continues to be so incapacitated, with the same disability or disabilities, at the time of filing; and**

ii. **The applicant factually demonstrates to the satisfaction of the Board that service was discontinued because of the disability or disabilities.**

5. **A disability retirement application that is filed under this subsection may take effect, in accordance with the laws and rules applicable to effective dates for disability retirements, only on or after the date the application is filed.**

[(f)] Retired members who return to public employment shall have their previous retirement allowances cancelled and be reenrolled in the Fund pursuant to N.J.S.A. 18A:66-40 for those who retired on disability retirements or N.J.S.A. 18A:66-53.2 for those who retired on early, service, veteran or deferred retirements. A member who ceases covered employment and retires again must file a new retirement application with the Division in accordance with (a) through (e) above in order to initiate payment of the retirement allowance. The previous retirement allowance shall then be reinstated, and the new retirement allowance, based upon the member's subsequent covered employment, shall commence. The previous and subsequent retirement allowances shall then be combined and paid in one monthly benefit check. The retirement allowance shall become effective on the first of the month following receipt of the application unless a future date is requested.]

(g) A member filing for [a] **an accidental or ordinary** disability retirement shall not file a separate application for [any other type of] retirement, **including one based on any other allegedly-disabling condition**, while [a] **the original** disability application is pending. A separate application can be filed only for a date subsequent to **withdrawal of the previous application.**

(h) If a disability retirement application is denied by the Board and the applicant qualifies for any other retirement benefit, the applicant will be required to submit a separate application for retirement. If the applicant submits the separate application for retirement within 30 days of the Board's decision, the applicant may retain the retirement date designated on the disability retirement application. **If a member is denied an accidental disability retirement, but qualifies for an ordinary disability retirement based on the accidental-disability application, the ordinary disability retirement will be granted, and no additional application will be required.**

(i) Retired members who return to public employment shall have their previous retirement allowances cancelled and be reenrolled in the Fund, pursuant to N.J.S.A. 18A:66-40 for those who retired on disability retirements, or N.J.S.A. 18A:66-53.2 for those who retired on early, service, veteran, or deferred retirements. A member who ceases covered employment and retires again must file a new retirement application with the Division in accordance with (a) through (e) above, in order to initiate payment of the retirement allowance. The previous retirement allowance shall then be reinstated, and the new retirement allowance, based upon the member's subsequent covered employment, shall commence. If the member retains the same membership level and account upon returning to employment, the previous and subsequent retirement allowances shall be combined and paid in one monthly benefit check. If the member is enrolled under a different membership level and account, the checks will not be combined.

17:3-6.2 Effective date

(a) A member's retirement allowance shall not become due and payable until 30 days after the date the Board approved the application for retirement or 30 days after the date of retirement, whichever is later.

17:3-6.3 Effective date; changes

(a) Except as provided by N.J.A.C. 17:3-6.1 and 6.7, a member shall have the right to withdraw, cancel, or change an application for retirement at any time before the member's retirement allowance becomes due and payable by sending a written request signed by the member. Thereafter, the retirement shall stand as approved by the Board.

(b) (No change.)

(c) **The effective date of a deferred retirement is determined by a member's enrollment date:**

(c) 1. [A] **For members who enrolled in the TPAF prior to November 2, 2008, and submitted an application for deferred retirement, a deferred retirement shall become effective on the first of the month following the member's 60th birthday. Should the member's 60th birthday fall on the first of the month, the member may elect the retirement to commence on that date, provided that an application is received by the Division in accordance with N.J.A.C. 17:3-6.1.**

2. For members who enrolled in the TPAF between November 2, 2008 and June 27, 2011, and submitted an application for deferred retirement, a deferred retirement shall become effective on the first of the month following the member's 62nd birthday. Should the member's 62nd birthday fall on the first of the month, the member may elect for the retirement to commence on that date, provided that an application is received by the Division in accordance with N.J.A.C. 17:3-6.1.

3. For members who enrolled in the TPAF after June 28, 2011, and submitted an application for deferred retirement, a deferred retirement shall become effective on the first of the month following the member's 65th birthday. Should the member's 65th birthday fall on the first of the month, the member may elect for the retirement to commence on that date, provided that an application is received by the Division in accordance with N.J.A.C. 17:3-6.1.

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

17:3-6.4 Outstanding loan

(a) A member who has an outstanding loan balance at the time of retirement may repay the loan balance, with accrued interest, as follows:

1. (No change.)

2. By deductions from retirement benefit payments of the same monthly amount deducted from the member's compensation immediately preceding retirement until the loan balance, with accrued interest, is repaid as authorized by [P.L. 1999, c. 132 (N.J.S.A. 18A:66-35.1)]. If the member does not request repayment in full, repayment is by deductions in the same monthly amount deducted from the member's compensation immediately preceding retirement.

(b) (No change.)

17:3-6.7 Disability determination

(a) A member **enrolled in the Fund before May 21, 2010**, for whom an application for accidental disability retirement allowance has been filed by the member, by the member's employer, or by one acting in behalf of the member, will be retired on an ordinary disability retirement allowance, if the Board finds that:

1. (No change.)

2. The member is physically or mentally incapacitated for the performance of duty **at the time the member terminates employment and should be retired;** and

3.-4. (No change.)

(b) (No change.)

(c) **The receipt of a disability pension is conditioned on a member's honorable service. Full or partial forfeiture of disability-retirement benefits may be imposed by the Board when appropriate, as provided in N.J.A.C. 17:1-6.**

17:3-6.8 Option selection; accidental disability denied

If an applicant for an accidental disability retirement benefit is rejected for an accidental disability benefit but is approved by the Board for retirement, in accordance with N.J.A.C. 17:3-6.7, the applicant will be

permitted, within 30 days following Board approval of the retirement, to amend the option selection[,which] **that** the applicant made on the original accidental disability retirement application.

17:3-6.10 Involuntary disability application

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of its employees **enrolled in the Fund before May 21, 2010**, the member will be promptly notified by letter that:

1.-6. (No change.)

17:3-6.11 Early retirement; reduction

(a) **The qualifications for an "early retirement" depend on a member's date of enrollment in the TPAF, and are as follows:**

1. For a member whose enrollment date is on or before July 1, 2007:

i. **Retirement with 25 or more years of credited service before the first of the month in which a member attains age 60 shall be classified as an "early" retirement, unless the member retires on a veteran's retirement allowance.**

ii. **The statutory reduction of one quarter of one percent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55 if the member's 55th birthday occurs after the 15th day of the month.**

2. For a member whose enrollment date is after July 1, 2007, but before November 2, 2008:

i. **Retirement with 25 or more years of credited service before the first of the month in which a member attains age 60 shall be classified as an "early" retirement, unless the member retires on a veteran's retirement allowance.**

ii. **The statutory reduction of 1/12 of one percent (one percent per year) for each month under age 60 through age 55, and 1/4 of one percent (three percent per year) for each month under age 55 applies to each month prior to the month in which the member attains age 60 and for the month in which the member attains age 60 if the member's 60th birthday occurs after the 15th day of the month.**

3. For a member whose enrollment date is on or after November 2, 2008, but before June 28, 2011:

i. **Retirement with 25 or more years of credited service before the first of the month in which a member attains age 62 shall be classified as an "early" retirement, unless the member retires on a veteran's retirement allowance.**

ii. **The statutory reduction of 1/12 of one percent per month (one percent per year) for each year under age 62 but over age 55; and three percent per year (1/4 of one percent per month) for each year under age 55 applies to each month prior to the month in which the member attains age 62 and for the month in which the member attains age 62 if the member's 62nd birthday occurs after the 15th day of the month.**

4. For a member whose enrollment date is on or after June 28, 2011:

i. **Retirement with 30 or more years of credited service before the first of the month in which a member attains age 65 shall be classified as an "early" retirement, unless the member retires on a veteran's retirement allowance.**

ii. **The statutory reduction of 1/4 of one percent per month applies for each month prior to the month in which the member attains age 65 (three percent per year), and for the month in which the member attains age 65 if the member's 65th birthday occurs after the 15th day of the month.**

17:3-6.12 Service retirement; eligibility

(a) **The qualifications for a "service retirement" depend on a member's date of enrollment in the TPAF:**

1. [A] **For members whose enrollment date is before November 2, 2008, a member becomes eligible for a "Service" retirement on the first of the month following the member's 60th birthday. At the election of a member, if the member's 60th birthday falls on the first of a month, the retirement shall become effective on that date provided the member files a timely retirement application pursuant to N.J.S.A. 18A:66-43(a) and requests that date.**

2. For members whose enrollment date is between November 2, 2008 and May 21, 2010, a member becomes eligible for a "Service" retirement on the first of the month following the member's 62nd birthday. At the election of a member, if the member's 62nd birthday falls on the first of a month, the retirement shall become effective on that date provided the member files a timely retirement application pursuant to N.J.S.A. 18A:66-43(a) and requests that date.

3. For members whose enrollment date is after May 21, 2010, a member becomes eligible for a "Service" retirement on the first of the month following the member's 65th birthday. At the election of a member, if the member's 65th birthday falls on the first of a month, the retirement shall become effective on that date provided the member files a timely retirement application pursuant to N.J.S.A. 18A:66-43(a) and requests that date.

17:3-6.13 Disability retiree; annual medical examinations

(a) All disability retirees under the [normal retirement] age of 60 may be required to undergo a medical examination each year for a maximum period of five years by a physician designated by the Fund as of the anniversary date of their retirement, unless such examination requirement has been waived by the Board.

(b) (No change.)

17:3-6.14 Disability retiree; annual report (employment, earnings, test, and adjustment)

(a) (No change.)

(b) Earnings from employment in New Jersey shall be obtained through the New Jersey Department of Labor and Workforce Development. For all other earnings the disability retiree shall be required to file a report with the Fund, which may include copies of the retiree's IRS 1040 forms and W-2 forms, as well as any other proofs of employment requested of a specific retiree indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of the prior year. **The Division may also require the retiree to complete the Federal Form 4506-T, Request for Transcript of Tax Return. In cases where a disability retiree does not provide the forms required for reporting earnings, as specified above, the retiree's disability retirement benefits will be suspended.**

(c)-(d) (No change.)

17:3-6.15 (Reserved)

17:3-6.20 Final compensation; [10] 10- and 12-month members reported monthly

(a) **Final compensation for 10- and 12-month members depends on a member's date of enrollment. For members enrolled on or before May 10, 2010:**

Recodify existing (a) and (b) as 1. and 2. (No change in text.)

(b) **For members enrolled after May 10, 2010:**

1. **In order to determine the final compensation (five-year average) for benefits of a member reported on a monthly basis under a 10-month contract, the creditable salaries upon which contributions were made to the Fund for the member's final 50 months, or the highest five fiscal years of pensionable service, including any retroactive salary payments that are attributable to the covered period and paid as part of a salary agreement with a group of employees, shall be used.**

2. **In order to determine the final compensation (five-year average) for benefits of a member reported on a monthly basis under a 12-month contract, the creditable salaries upon which contributions were made to the Fund for the member's last 60 months or the highest five fiscal years of pensionable service, including any retroactive salary payments that are attributable to the covered period and paid as part of a salary agreement with a group of employees, shall be used.**

(c) If a member was reported on any combination of [10] 10- and 12-month contract years in such three-year period, **for members enrolled on or before May 10, 2010, or such five-year period, for members enrolled after May 10, 2010, the final average compensation shall be determined on a proportional basis.**

17:3-6.24 Part-time members

(a) [The] **For members enrolled in the Fund before May 21, 2010, the determination of benefits, service credit, and final compensation for any person (part-time teacher) who qualified for membership under this chapter shall be done on the same basis as for regular full-time teachers, with the exception that the Board shall reserve the right to review any application where there has been an unusual change in the teacher's status [which] that might result in the payment of an abnormal benefit.**

(b) **Employees who are otherwise eligible for enrollment but do not work the minimum number of hours per week required for all enrollments occurring after May 21, 2010 (32 hours per week for State education or local education employees), will not be permitted to enroll in the Fund.**

SUBCHAPTER 7. TRANSFERS

17:3-7.1 Honorable service; interfund transfers; State-administered retirement systems

(a) The receipt of a public pension or retirement benefit is expressly conditioned upon the rendering of honorable service by a public officer or employee. [Therefore,] **If the Board of an employee's former system determines that all or a portion of the employee's prior service is dishonorable, the Board of the employee's new State-administered retirement system shall disallow the transfer of [all or a] that portion of prior service [of any member of the former State-administered retirement system] deemed dishonorable for misconduct occurring during the member's prior public service[, which renders that prior service, or part thereof, dishonorable].**

(b) [A] **Except as noted in (a) above, a member is eligible to transfer membership from another State-administered defined benefit retirement system, provided the membership has not expired or has not been withdrawn and provided that all service eligible for participation has ceased.**

[(c) The system will transfer membership to any State-administered defined benefit retirement system as follows:]

1. A member[, desiring to transfer service credit and contributions from one State-administered defined benefit retirement system to another, must file an "Application for Interfund Transfer." [and an "Enrollment Application in place of the customary "Application for Withdrawal."] This application will [void all possible claims against the present system when approved and the new membership is commenced in the new system] **terminate membership in the former system when approved.**

2. The member's accumulated contributions, full interest included, less any outstanding loan, shall be transferred to the new [system for the] **membership** account of the respective member. Any outstanding loan, back deductions, or arrears obligation will be scheduled for repayment.

3. (No change.)

4. The member's service credits **and enrollment date** established in the [present] **former** system shall be transferred into the new [system] **membership** account.

5. The member is not eligible to transfer service credit if any of the following conditions apply:

i. (No change.)

ii. The member has credit in the present system for service earned after the date of enrollment in the new system (concurrent service) unless the member meets the criteria established by [P.L. 2001, c. 341 [N.J.S.A. 43:15A-14]]. [P.L. 2001, c. 341] **N.J.S.A. 43:15A-14** provides that a member of the PERS at the time of enrollment in the TPAF may transfer the non-concurrent PERS service if the member ceased to be an active contributing member of the PERS three or less years from the date of enrollment in the TPAF. The member must apply to transfer this service no more than two years from the date of the last contribution in the PERS [unless the member is vested in the PERS], or the member's PERS account has not expired due to the provisions of N.J.S.A. 43:15A-8. A member who transfers service under this provision shall receive credit for the salaries earned in both the TPAF and PERS during the period of concurrent service; or

iii. (No change.)

6. (No change.)

(c) The system will transfer membership to any State-administered defined benefit retirement system as provided in (b) above.

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

17:3-7.2 Intrafund transfers; State-administered retirement systems

(a) Members who leave one public employer and take a position with another public employer covered by the same pension system are immediately eligible to transfer their membership to their new employers, as long as the following conditions are met:

1. (No change.)

2. The account has not expired; that is, it has not been more than two years between the date of the last contribution received from the old employer and the starting date of contributions with the new employer [or there was enough service credit to be eligible for a deferred retirement];

3.-4. (No change.)

(b) (No change.)

OTHER AGENCIES

(a)

DELAWARE RIVER BASIN COMMISSION

Notice of Proposed Rulemaking and Public Hearing Proposed Amendments to the Rules of Practice and Procedure to Allow Each Signatory Party and the DRBC to Administer a Single Process for the Review and Adjudication of Projects

Authorized By: Delaware River Basin Commission, Pamela M. Bush,
Commission Secretary.

Proposal Number: PRN 2015-061.

The Delaware River Basin Commission (“DRBC” or “Commission”) is a Federal interstate compact agency charged with managing the water resources of the Basin without regard to political boundaries. Its commissioners are the governors of the four basin states – New Jersey, New York, Pennsylvania, and Delaware – and a Federal representative, the North Atlantic Division Commander of the U.S. Army Corps of Engineers. The Commission is not subject to the requirements of the New Jersey Administrative Procedure Act. This notice is published by the Commission for information purposes.

Summary: The Commission will hold a **public hearing** to receive comments on proposed amendments to its Administrative Manual Part III – Rules of Practice and Procedure (18 CFR Part 401) to provide for DRBC and each of the parties to the Delaware River Basin Compact (United States Public Law 87-328, Appr. Sept. 27, 1961, 75 Statutes at Large 688; and New Jersey Laws of 1961, Ch. 13, Appr. May 1, 1961) (“the Compact”) – New Jersey, Delaware, New York, Pennsylvania, and the Federal government (“Signatory Parties”) – to coordinate and collaborate in the administration of a single process for the review and adjudication of projects. The program, called “One Process/One Permit,” (also herein, “the Program”) will allow DRBC and administrative agencies of the Signatory Parties participating in the Program to incorporate the requirements and determinations of both DRBC and the Signatory Party agency into a single permit or other approval instrument.

Dates: The **public hearing** will start on or around 2:00 P.M. on Tuesday, June 9, 2015, during the Commission’s regularly scheduled public hearing. The hearing will continue until all those wishing to testify have had an opportunity to do so. Depending upon the number of people wishing to speak, the hearing officer may impose time limits on speakers. Written comments will be accepted by any of the means described below and must be received by 5:00 P.M. on Wednesday, July 1, 2015. More information regarding the procedures for the hearing and comments is set forth in the section “Oral Testimony and Written Comments.”

Addresses: The **public hearing** will be held at the Washington Crossing Historic Park Visitor’s Center at 1112 River Road in Washington Crossing, Pa. Please check washingtoncrossingpark.org/

[contact/](#) for directions, as Internet mapping services provide unreliable directions to this location.

Oral Testimony and Written Comments: Persons wishing to testify at the hearing are asked to register in advance by contacting Paula Schmitt at 609-883-9500, ext. 224 or paula.schmitt@drbc.state.nj.us. Written comments may be submitted as follows: If by e-mail (preferred), to paula.schmitt@drbc.state.nj.us; if by fax, to Commission Secretary at 609-883-9522; if by U.S. Mail, to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628-0360; and if by overnight mail, to Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628-0360. Comments also may be delivered by hand at any time during DRBC’s regular office hours (Monday through Friday, 8:30 A.M. through 5:00 P.M. except on national holidays) until the close of the comment period. In all cases, please include the commenter’s name, address, and affiliation, if any, in the comment document and “One Process/One Permit” or “OPOP” in the subject line.

For Further Information: The rule text is available on the DRBC website, DRBC.net. Also posted to the website are an extensive FAQ document; DRBC Resolution No. 2015-04, authorizing the Executive Director to initiate rulemaking and enter into an administrative agreement with the New Jersey Department of Environmental Protection (NJDEP) for demonstration of the Program; and the administrative agreement between DRBC and the NJDEP to provide for the demonstration program, which includes provisions for fully implementing One Process/One Permit once a final rule has been adopted. Detailed procedures of the DRBC for public hearings, public meetings and “Public Dialogue” are available on the web at: <http://www.state.nj.us/drbc/library/documents/procedures120414.pdf>. For further information, please contact Commission Secretary Pamela M. Bush, 609-477-7203.

Supplementary Information

Background. Because DRBC and its Signatory Parties share common water resource management objectives, sponsors of many water resource-related projects in the Delaware River Basin are currently required to apply to both the DRBC and a state agency, among others, for approvals. The proposed rule provides for DRBC and the administrative agencies of the Signatory Parties to identify regulatory programs that by mutual agreement will be managed through a single process resulting in one decision or approval. Agreements between DRBC and Federal agencies are possible under the rule, but none are currently contemplated.

One Process/One Permit is intended to promote interagency cooperation and collaboration on shared mission objectives, achieve regulatory program efficiencies, avoid unnecessary duplication of effort, and reduce the potential for confusion on the part of regulated entities and the public. The regulatory standards and authorities of the DRBC and each of its Signatory Parties are expressly preserved by the Program, including in the proposed rule. The more protective of the applicable DRBC or Signatory Party agency’s requirements will be included in each permit or approval issued under the Program.

The proposed rule provides for DRBC and each Signatory Party agency choosing to implement One Process/One Permit to enter into an administrative agreement that identifies the types of projects and approvals to be covered. Initially, the Program is expected to be implemented for (a) withdrawals of basin waters subject to both DRBC review and state allocation programs; and (b) wastewater discharges subject to DRBC review and the state-administered National Pollutant Discharge Elimination System (NPDES) program. For water withdrawals, the lead agency under One Process/One Permit may be the state or the DRBC, depending upon current state programs. The delegated state environmental agencies will be lead agencies for the review of wastewater discharges. Other regulatory programs, such as programs relating to floodplain management, could be included in the future. All administrative agreements between DRBC and agencies of the Signatory Parties for implementing One Process/One Permit will be subject to Commission approval following a public hearing.

Authority. Sections 1.5 and 3.9 of the Compact and existing DRBC rules allow and encourage the Commission to use the agencies of the Signatory Parties wherever feasible and advantageous consistent with the Compact. Accordingly, under the proposed rule, permits issued by Signatory Party agencies may include a finding required by Section 3.8 of