

DELAWARE RIVEER BASIN COMMISSION

MEETING OF SEPTEMBER 9, 2021

Minutes

Commissioners: Lieutenant Colonel Ramon Brigantti, United States, Chair  
Present: Aneca Y. Atkinson, Pennsylvania, Vice Chair  
Jeffrey L. Hoffman, New Jersey, Second Vice Chair  
Shawn M. Garvin, Delaware  
Kenneth Kosinski, New York

DRBC Staff: Steven J. Tambini, Executive Director  
Participants: Kenneth J. Warren, DRBC General Counsel  
Elba Deck, Director, Finance and Administration  
David Kovach, Manager, Project Review  
Amy Shallcross, Manager, Water Resource Operations

Lieutenant Colonel Brigantti called the meeting to order, introducing himself as Commander of the Philadelphia District, U. S. Army Corps of Engineers, and alternate for Brigadier General Thomas Tickner, the Commission's chair *pro tem*, representing the Federal government. He noted that the meeting was being held remotely, had been advertised as such on the DRBC website, and was open to the public via the Zoom webinar and a live stream on DRBC's YouTube channel. The meeting agenda was posted on the DRBC website.

LTC Brigantti also noted that the meeting was being recorded, and that attendees would not have camera or microphone access, adding that during the one-hour open public comment session to be held after the business meeting adjourned, the microphone would be enabled for each speaker, in turn. He encouraged attendees to use their computer connection for both audio and video or to call in using the phone number provided on DRBC's website.

In the absence of Commission Secretary Pam Bush, and at LTC Brigantti's request, the Commission's General Counsel Ken Warren called the roll, and the four alternate state commissioners introduced themselves in turn: Shawn Garvin, Secretary of the Delaware Department of Natural Resources and Environmental Control, representing Delaware Governor John Carney; Jeff Hoffman, New Jersey State Geologist, representing New Jersey Governor Phil Murphy; Ken Kosinski of New York State Department of Environmental Protection representing Governor Hochul of New York; and Summer Kunkle of the Pennsylvania Department of Environmental Protection, representing Governor Tom Wolf. All commissioners present. Steve Tambini, Executive Director of the DRBC and Ken Warren, DRBC general counsel also introduced themselves.

Minutes. In Ms. Bush's absence, Mr. Warren explained that the draft Minutes of the Commission's special meeting of February 25, 2021 and its regularly scheduled meeting of June 10, 2021 had

been circulated to the Commissioners for their review. On a motion by Mr. Hoffman, seconded by Mr. Garvin, and without questions or corrections, the Minutes of the special meeting of February 25, 2021 were approved by unanimous vote. By motion of Mr. Kosinski seconded by Mr. Hoffman, and again without questions or corrections, the Minutes of the regularly scheduled meeting of June 10, 2021 were approved by unanimous vote.

Announcements. Mr. Tambini noted that the Commission's Water Management Advisory Committee would meet on Thursday, October 21, 2021 from 1:30 to 3:30 p.m. and that advisory committee meeting details could be found on the Commission's website.

Hydrologic Conditions. Highlights of Ms. Shallcross's report on hydrologic conditions are set forth below. A graphical summary of hydrologic conditions in the Basin as of September 9, 2021 can be accessed at:

[https://www.nj.gov/drbc/library/documents/HydrologicConditions\\_shallcross\\_090921.pdf](https://www.nj.gov/drbc/library/documents/HydrologicConditions_shallcross_090921.pdf)

Ms. Shallcross explained that as the agency responsible for managing the Basin's water resources, the Commission is concerned with the hydrologic cycle, which describes how and where water interacts among the atmosphere, land and water bodies.

*Precipitation.* The Basin ordinarily receives between 42 and 47 inches of precipitation annually. Through the meeting date, however, three-quarters of the way through 2021, area have received as much as or more than the normal *annual* amount. Ms. Shallcross noted that areas in the western part of the Basin, including parts of Carbon and Schuylkill counties in Pennsylvania, and portions of the lower Basin, including parts of Salem County, New Jersey and New Castle County, Delaware, had remained relatively dryer than other areas in the basin, a pattern observed for the past few years.

The above normal precipitation was attributable in large part to tropical storms. Ms. Shallcross noted that in May of 2021, the National Weather Service had predicted thirteen to twenty named storms, six to ten of which would be hurricanes, and three to five of these, major hurricanes. When the forecast was updated in August, the predicted number of named storms increased to a range of between fifteen and twenty-one, of which *seven* to ten would be hurricanes. To date, the region had seen twelve named storms, of which five were hurricanes, and three, major hurricanes. Ms. Shallcross noted that Elsa crossed the Basin in July, followed by Fred and Henri in August, and Ida in September, and that climatologically, September 10 is only the midpoint of the hurricane season.

*Flooding from Ida on Sept. 1-2.* The tropical storms of 2021 typically passed through the central region of the Basin, with the most rain on Chester, Montgomery, Bucks, Hunterdon, and Mercer counties. The upper and lower Basin regions received less rainfall. Ms. Shallcross displayed hydrographs showing record flood elevations on the Schuylkill River at Norristown, the East Branch Brandywine Creek below Downingtown, and the Perkiomen Creek at Graterford. Ms. Shallcross offered a series of facts, hydrographs and photographs illustrating the impact of Ida across the central Basin on September 1 and 2. *Stream flows.* Displaying a map on which colored dots represented stream flows as of 6:30 that morning, Ms. Shallcross explained that although

September is historically a drier period of the year, flows remained high in many locations, while others, particularly in south central and southwestern New Jersey, were experiencing normal or only slightly above normal flows.

Normally at this time of year, releases to meet a flow target at Montague, New Jersey are made from the three New York City reservoirs, and releases to meet a target at Trenton are made from Blue Marsh Reservoir in the Lehigh Basin and Beltzville Reservoir in the Schuylkill Basin. Displaying a hydrograph of flows at Montague over the preceding year, and another showing flows at Trenton, Ms. Shallcross noted that multiple high flow events had been experienced at both locations, following a similar pattern. Although some releases had been required to meet the Montague target, none had been needed to meet the flow objective at Trenton.

*Federal Reservoir Storage.* A graph displaying storage in the Federal reservoirs, Beltzville and Blush Marsh (in which the Commission owns storage) and F.E. Walter showed all three facilities at 100 percent of capacity or more. As of the meeting date, the Corps was still releasing flood waters captured by the three reservoirs.

*New York City Delaware Basin Storage.* The Commission uses combined storage in New York City's three Delaware Basin reservoirs, Pepacton, Cannonsville, and Neversink, to determine the Basin's drought status. Combined storage in the three reservoirs as of the meeting date was approximately 95 percent, with the storage in Neversink the highest, at 97 percent. A graph showing combined storage in the City's three reservoirs over the previous 12 months indicated the major hydrologic events that filled them, including a rain on snow event on December 24, 2020, the spring snowmelt in March 2021, Hurricane Elsa and other storms in July, Hurricanes Fred and Henri in August, and Hurricane Ida in September. Ms. Shallcross noted that because Ida delivered less rain to the upper Basin, the reservoirs filled less from Ida than from Elsa.

Ms. Shallcross said that contrary to the reports by some emergency managers to elected officials, New York City made no releases related to the flooding caused by Ida, nor did its reservoirs spill during event. She also noted that moderate flooding in Hawley, Pennsylvania was not due to releases from Lake Wallenpaupack, which is on a different tributary to the Lackawaxen River. Brookfield Renewable, which operates Wallenpaupack, made precautionary releases, known as a "controlled spill," through its roller gates. The Commission appreciated calls by Brookfield Renewable and by Eagle Creek, operator of the Mongaup System reservoirs, to inform DRBC staff of conditions at their respective dams during the flood event. Ms. Shallcross also noted that the U.S. Army Corps of Engineers had created additional flood storage in its reservoirs by releasing water from the recreation pool at Blue Marsh and F.E. Walter reservoirs prior to Ida.

*Salt front.* The reason for the Commission's flow objectives at Montague and Trenton is to ensure adequate flows for downstream uses and repel the "salt front" in the Delaware River Estuary. The "salt front" is the term used to represent the location at which salt water from the ocean and freshwater from the land meet. Water users rely on water from the Estuary for domestic and other purposes. During the Basin's drought of record in the 1960s, during which streamflows were low due to the lack of precipitation, salinity in concentrations unhealthy for human consumption crept upstream as far as River Mile 102, threatening drinking water intakes that serve Philadelphia.

Multiple studies were performed in the 1970s and 1980s to develop a program of flow augmentation, using releases from reservoirs upstream, to protect Philadelphia’s intake. On the meeting date, the salt front was located at River Mile 56.1, near Port Penn, Delaware, considerably below its normal September location of River Mile 76.

*Groundwater.* With the exception of monitoring wells in Delaware County, Pennsylvania and Burlington County, New Jersey, where less rainfall occurred, groundwater monitoring wells in the Basin were showing above normal water levels due to rainfall infiltration following the recent storms. Ms. Shallcross displayed a table of observation well levels in the Basin, followed by hydrographs from six of the wells—two each from the upper, middle and lower regions of the Basin. The graphs from Woodbourne, New York and Wayne County, Pennsylvania both showed levels well above the normal range for September, after a period of heavy drawdown during the hot weeks of summer. In Monroe County in the Poconos, after a year of normal fluctuations, infiltration following Hurricanes Henri and Ida resulted in groundwater levels above their normal ranges, while across the Delaware River in Burlington County, New Jersey, levels remained normal. In the lower Basin, water levels in New Castle County Delaware remained normal, while rainfall caused peaks in groundwater levels in Delaware County, Pennsylvania.

*Drought outlook.* Displaying the U.S. Seasonal Drought Outlook prepared by NOAA-National Weather Service (“NOAA-NWS”), Ms. Shallcross noted the dramatic difference between hydrologic conditions in the western United States, where a severe drought was expected to continue, and the eastern United States, where drought conditions were deemed unlikely to develop.

*Three-month (seasonal) outlook.* Referring to NOAA-NWS predictions, Ms. Shallcross noted that higher than normal temperatures were expected for the fall in the northeastern United States, with an equal chance of above and below normal precipitation.

*Additional information.* Current versions of some of the graphics presented by Ms. Shallcross can be accessed on the DRBC Hydrologic Snapshot for Flow and Drought Management at [www.hydrosnap.drbc.net](http://www.hydrosnap.drbc.net). The Commission’s website also includes a flood portal, where users can access flood information, sign up for alerts from the National Weather Service, and find links to flood forecasts and FEMA projects. The portal is located in the Hydrological Information tab on DRBC’s homepage and directly at: <https://www.nj.gov/drbc/hydrological/river/portal-flood.html>.

Executive Director 's Report. Mr. Tambini’s remarks are summarized below:

- *Meeting Attendance.* Zoom showed about 46 attendees at the Business Meeting, excluding the Commissioners, Executive Director, and Counsel.
- *Hurricane Ida.* Thanks to Amy Shallcross, Kate Schmidt, and other members of the DRBC staff for their work in providing accurate information to the public, emergency managers and government officials throughout the Ida storm and flooding event of September 1-2. Mr. Tambini recognized the high level of preparation and coordination required to report accurately on a dynamic situation such as this, while fielding multiple and diverse inquiries

behind the scenes. He also acknowledged the devastation caused by Ida within the Basin and across the country, and offered condolences to those who lost friends and loved ones, and who may need to rebuild their homes and businesses. He thanked the first responders and average people who risked their own safety to help others.

- *Climate resiliency is water resiliency.* Mr. Tambini observed that the frequency of extreme weather events like Ida and Henri served to highlight the impacts of climate change on all elements of the water cycle. He reiterated that the 2021 hurricane season, just three-quarters over, had set new record flood elevations on several streams. Although on this day, the focus was flooding, he emphasized that the Basin needs to anticipate and prepare for the opposite extreme—drought—as well. In all, he said, Ida was a teachable moment for water resource managers and stakeholders. Resiliency to droughts, floods, sea level rise, and other climate events would be central to planning for sustainable water security basinwide. He noted that managing, protecting, and improving the Basin’s shared water resources are the core of DRBC’s mission, and that the Commission is unique in its focus on planning and policy to address water resiliency and water security at the watershed scale. Although new federal resources and program funding for the Basin are positive developments, he said, Ida and other extreme events were calls to the Basin community to prioritize, plan for, and build the grey and green infrastructure required to adapt to a changing climate and improve water resiliency.
- *Rulemaking.* Mr. Tambini said that later in the meeting he would present for the Commissioners’ consideration a resolution to extend the date previously set for publishing draft rules concerning transfers of water and wastewater from and into the Delaware Basin. He acknowledged the significant public interest in this matter and said the DRBC staff, the Commissioners, and their staff members were working diligently to prepare the proposal for publication. Although nearing completion, he said, the process for publication would take a little more time, and would not occur by September 30, the original target date.
- *Forthcoming technical report.* Mr. Tambini announced the forthcoming technical report, “Water Withdrawal and Consumptive Use Estimates for the Delaware River Basin with Projections to 2060,” noting this report will provide an important planning tool for use in assessing future water availability in the Basin.
- *Partnership for the Delaware Estuary Milestone.* The Partnership for the Delaware Estuary (PDE) was incorporated as a nonprofit organization in 1996. Over its 25-year history, PDE has worked with the DRBC, federal government, the Estuary states of Delaware, New Jersey, and Pennsylvania, and many others within a non-regulatory framework, to connect people, science, and nature for a healthy Delaware River and Bay. PDE hosts the Delaware Estuary Program, one of 28 national estuary programs supported by EPA. In 2019, PDE partnered with DRBC and many others to update the Comprehensive Conservation and Management Plan for the Estuary. Mr. Tambini invited attendees to visit <https://delawareestuary.org> to learn more about the excellent work of PDE over the past two-and-a-half decades. He also alerted listeners to upcoming Delaware River Festival events, from September 24 through October 3 in Philadelphia, Camden, and virtually, and

asked all to join him in congratulating the leadership and staff of PDE on the organization's 25th anniversary, and to wish them continued success.

- *Retirement of Peter Eschbach.* Mr. Tambini announced the retirement from DRBC of Peter Eschbach, effective November 1, 2021. Peter joined the DRBC in 2016. In 2017, he assumed the role of Director of Communications and External Affairs. Peter brought new ideas, unique perspectives, and a willingness to partner with others in the Basin community. Peter found new ways and improved on old ways for telling anyone who would listen the value of the DRBC and the multiple benefits it has brought to our region. He developed the *Our Shared Waters* partnership and many other tools of for reaching and educating water users throughout the vast and diverse Basin territory. As many know, Peter is a proud West Point graduate and army veteran. Mr. Tambini invited all to join him in thanking Peter for his service to the Basin and the country, and in wishing Peter and his wife Susan an enjoyable and well-earned retirement.

The commissioners echoed Mr. Tambini's congratulations, thanked Peter Eschbach for his great work on behalf of the Commission, and wished him well.

General Counsel's Report. Mr. Warren provided a brief report on the three pending litigation matters involving DRBC:

*Yaw et al. v. DRBC.* Pennsylvania State Senators Gene Yaw and Lisa Baker, together with additional plaintiffs, filed this suit in the Eastern District of Pennsylvania in January. As amended, their complaint challenges the Commission's adoption on February 25, 2021 of a prohibition on high-volume hydraulic fracturing (HVHF) in the Basin. The District Court dismissed the suit on grounds that the plaintiffs had not been harmed in any legally cognizable way, and thus lack standing to bring their claims. The plaintiffs thereupon appealed the matter to the Court of Appeals for the Third Circuit, where the case was pending as of September 9. The appellants' briefs were to be filed by September 27, after which the DRBC would have 30 days to respond.

*WLMG v. DRBC.* As of the meeting date, the suit by Wayne Land and Mineral Group, initiated in May of 2016, was pending in the middle District of Pennsylvania. In this case a landowner challenged DRBC's project review authority over HVHF activities in the Basin. Following DRBC's adoption of a final rule prohibiting HVHF in the Basin in February 2021 and initiation of the Yaw litigation, the Wayne Land case was stayed, in part because even if the plaintiffs prevailed, in light of the Commission's HVHF prohibition, the Court could grant no meaningful remedy. The parties were under instruction to report periodically to the District Court regarding the status of the Yaw case, to determine whether the case should proceed.

*DRN v. DRBC.* Filed by the Delaware Riverkeeper Network (DRN) in the District of New Jersey in January of 2021, this suit challenged DRBC's approval of the Gibbstown Logistic Center Dock 2 project. In May 2021, DRN moved to supplement the administrative record in the matter. That motion was briefed and remained pending as of September 9, 2021.

Mr. Warren invited Mr. Kovach to report to the Commissioners on the proposed modification of a settlement agreement.

*Nestlé Purina Petcare Company (NPPC).* In September of 2018, the Commission approved a settlement agreement between the DRBC and NPPC to resolve alleged violations of effluent limits in the docket issued by DRBC for NPPC’s industrial wastewater treatment plant discharge to an unnamed tributary of Jordan Creek in Lehigh County, Pennsylvania. The 2018 settlement required NPPC to achieve compliance with effluent limitations for nitrogen, phosphorus, and total suspended solids by October 31, 2021. NPPC’s performance under the agreement was delayed by a number of events, including the decision, in which DRBC concurred, to evaluate a possible connection to the municipal wastewater treatment facility in South Whitehall Township, and the ongoing pandemic. Both events delayed the detailed engineering and design work necessary to complete the project plan. NPPC and the DRBC proposed to amend the agreement by extending the compliance period by two years, to October 31, 2023. Because PADEP approvals were also required, the DRBC staff coordinated closely with PADEP in considering the proposed amendment. Mr. Kovach recommended that the Commission approve the amendment.

On a request by the Chair, Mr. Hoffman so moved, Mr. Kosinski offered a second, and without further discussion, the motion to approve the proposed amendment of the settlement agreement carried by unanimous vote.

This concluded the General Counsel's report.

A Resolution for the Minutes authorizing the Executive Director to execute an agreement for an actuarial evaluation of the Commission’s “Other Post-Employment Benefit” (“OPEB”) obligations, in accordance with Government Accounting Standards Board Statement No. 75 (“GASB 75”). Ms. Deck related that the Commission in 2009 had established an integral part trust to help fulfill its post-retirement health benefit obligations to DRBC employees. Since that date, in compliance with GASB 75, the Commission has conducted an actuarial evaluation every two years. Ms. Deck noted that there had been five such evaluations since 2009, and another was now due. In accordance with the draft resolution that had been circulated to the Commissioners in advance of this meeting, the evaluation was to be performed by Brown and Brown Consulting of Philadelphia, Pennsylvania at a cost of \$6,500, in accordance with the company’s proposal dated July 14, 2021. Ms. Deck recommended that the Commissioners approve the resolution as proposed.

At the Chair’s request, Mr. Kosinski so moved and Ms. Kunkel offered a second. Without further discussion, the Resolution for the Minutes authorizing the Executive Director to execute an agreement for the preparation of an actuarial evaluation of the Commission’s “Other Post-Employment Benefit” (“OPEB”) obligations, in accordance with Government Accounting Standards Board Statement No. 75 (“GASB 75”) was approved by unanimous vote. The text of the resolution follows:

## RESOLUTION FOR THE MINUTES

A RESOLUTION authorizing the Executive Director to execute an agreement for the preparation of an actuarial evaluation of the Commission's "Other Post-Employment Benefit" ("OPEB") obligations, in accordance with Government Accounting Standards Board Statement No. 75 ("GASB 75").

WHEREAS, Resolution No. 2009-9, adopted on October 22, 2009, authorized the Executive Director to establish an IRC Section 115 Integral Part Trust and to adopt the VantageCare Retirement Health Savings Employer Investment Program offered by ICMA Retirement Corporation (ICMA-RC) to help the Commission fulfill its OPEB (non-pension) post-employment retirement benefit obligations; and

WHEREAS, in implementing these steps, the Commission has complied with the generally accepted accounting standards set forth in GASB 75; and

WHEREAS, GASB 75 requires that a biennial actuarial evaluation be performed to measure the Commission's OPEB liabilities and expenses as of fiscal year 2022; and

WHEREAS, such an evaluation was conducted during the fiscal years beginning July 1, 2009, July 1, 2012, July 1, 2015, July 1, 2017; and July 1, 2019; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. The Executive Director is hereby authorized to procure the services of Brown & Brown Consulting of Philadelphia, Pennsylvania for the preparation of an actuarial evaluation as required by GASB 75, consistent with the firm's proposal dated July 14, 2021, in an amount not to exceed \$6,500;
2. In accordance with Section 14.9(5) of the Compact, the competitive bidding provisions of the Compact are hereby waived in view of the specialized and professional nature of the services to be procured.

This Resolution shall take effect immediately.

A Resolution for the Minutes amending the *Administrative Manual—By-laws, Management and Personnel*. Ms. Deck explained that staff in consultation with the Commissioners had undertaken a comprehensive review and update of the *Administrative Manual—Bylaws, Management and Personnel* (the "*Manual*"), setting forth the Commission's management and personnel practices.

Proposed updates to the *Manual* consisted of: (1) replacing nouns and pronouns that are not gender neutral; (2) providing for adjustments to the General Schedule at the discretion of the Executive Director after reevaluation at regular intervals; (3) recognizing the Commission's commitment to diversity, equity, inclusion, and justice in recruitment; (4) clarifying the health benefits available to qualifying Commission retirees; (5) expanding certain parental leave provisions to cover surrogacy, adoption, and fostering situations; (6) phasing out DRBC's long-term institutional seniority rights in connection with reductions in force; (7) clarifying the Commission's procedures for the procurement of services and materials under Section 14.9 of the Compact; and (8) authorizing the Commission to perform background checks on prospective employees, following



appropriate legal guidance. Ms. Deck emphasized that nothing in the revised *Manual* altered the health benefits of active or retired Commission employees or of future retirees. She recommended that the resolution be adopted as proposed.

At the Chair's request, Ms. Kunkel so moved, Mr. Kosinski offered a second, and without further discussion, the Resolution for the Minutes amending the *Administrative Manual—By-laws, Management and Personnel* was approved by unanimous vote. The text of the resolution follows:

#### RESOLUTION FOR THE MINUTES

A Resolution for the Minutes amending the *Administrative Manual—By-laws, Management and Personnel*.

WHEREAS, the organization, management and personnel practices of the Commission are governed by the *Administrative Manual—By-laws, Management and Personnel* (also herein, the "Manual"); and

WHEREAS, since it was first issued in 1961 the Commission has periodically amended and updated discrete sections of the Manual; and

WHEREAS, the Manual was last amended on December 9, 2020, to diversify the list of Commission holidays; and

WHEREAS, staff in consultation with the Commissioners have recently undertaken a comprehensive review of the Manual; and

WHEREAS, the Commission has determined that it is in its best interest to update, clarify and otherwise revise multiple aspects of the *Manual*, including by: (1) replacing nouns and pronouns that are not gender neutral; (2) providing for adjustments to the General Schedule as appropriate and necessary, at the discretion of the Executive Director after re-evaluation at regular intervals; (3) recognizing the Commission's commitment to diversity, equity, inclusion and justice in recruitment; (4) clarifying the health benefits available to qualifying Commission retirees; (5) expanding certain parental leave provisions to cover surrogacy, adoption, and fostering situations; (6) phasing out over the long term the institution of seniority rights in connection with reductions in force; (7) clarifying the Commission's procedures for procurement of services and materials under Section 14.9 of the Compact; and (8) authorizing the Commission to perform background checks on prospective employees, following appropriate legal guidance; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. The revised *Administrative Manual—Bylaws Management and Personnel*, included herewith as Attachment A, is hereby adopted, incorporating the amendments shown in the mark-up included herewith as Attachment B.

2. Nothing in the revised Manual changes the health benefits of active Commission employees, retired employees or future retirees. In the event of any discrepancy between the narrative in the *Administrative Manual—Bylaws, Management and Personnel*, on the one hand, and the provisions of DRBC Resolution No. 2005-14 and applicable New Jersey law, on the other, the referenced resolution and state law are controlling.

3. The effective date of the revised *Administrative Manual—By-laws, Management and Personnel* shall be January 1, 2022.

Attachments A and B of the Resolution for the Minutes amending the *Administrative Manual—By-laws, Management and Personnel* are included as Attachments A and B of these Minutes.

A Resolution for the Minutes extending through November 30, 2021 the date by which the DRBC will publish proposed amendments to the Comprehensive Plan and implementing regulations with respect to transfers of water and wastewater from and to the Delaware River Basin. Mr. Tambini explained that to afford the Commissioners and staff the time required to thoroughly prepare and coordinate the important rulemaking proposal that was under development, the target date established by the Commission earlier that year must be extended. He recommended that the Commissioners approve the resolution as proposed.

At the Chair's request, Mr. Hoffman so moved, Mr. Garvin offered a second, and without further discussion, the Resolution for the Minutes extending through November 30, 2021 the date by which the DRBC will publish proposed amendments to the Comprehensive Plan and implementing regulations with respect to transfers of water and wastewater from and to the Delaware River Basin was approved by unanimous vote. The text of the resolution follows:

#### RESOLUTION FOR THE MINUTES

A RESOLUTION extending through November 30, 2021 the date by which the DRBC will publish proposed amendments to the Comprehensive Plan and implementing regulations with respect to transfers of water and wastewater from and to the Delaware River Basin.

WHEREAS, in accordance with a Resolution for the Minutes adopted on February 25, 2021, the DRBC staff and Commissioners are working diligently to ready for public comment a set of proposed amendments to the Comprehensive Plan and implementing regulations concerning transfers of water and wastewater from and to the Delaware River Basin; and

WHEREAS, to allow the Commission's members and staff the time required to thoroughly prepare and coordinate this important proposal, the date for issuance of the proposed rulemaking must be adjusted; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The February 25, 2021, Resolution for the Minutes is hereby amended to provide that the Commission will publish for comment proposed amendments to the Comprehensive Plan and implementing regulations with respect to transfers of water and wastewater from and to the Delaware River Basin no later than November 30, 2021.

2. All other provisions of the February 25, 2021, Resolution for the Minutes remain unchanged.

Project Review Applications. Mr. Kovach said that at a duly noticed public hearing on August 11, 19 draft dockets had been subject to public comment. He was recommending the adoption of 18

of those today and proposing that consideration of one – draft Docket D-1970-120-4 for Cambridge Lee Industries – be postponed to allow additional time for the Commission to complete its review.

The Commission received comments on docket items 3 and 19, consisting of, respectively, Docket D-1988-017 CP-4 for the Horsham Water and Sewer Authority, and Docket D-2020-002-1 for PSEG Power LLC (a project also referred to as the “New Jersey Wind Port”). The comments and responses were set forth in a document shared previously with the Commissioners, which Mr. Kovach now summarized.

The Delaware Riverkeeper Network (“DRN”) offered comments on the draft renewal docket for the Horsham Water and Sewer Authority. Mr. Kovach explained that in the recent past, for municipal wastewater treatment plants located in the drainage area of the non-tidal main stem and the Estuary, such as the Horsham facility, DRN had asked the Commission to require effluent monitoring and removal of polyfluoroalkyl substances. The Commission consistently declined to do so, pending the development of applicable standards and a systematic approach to such monitoring in coordination with the Commission’s member states and the United States.

In the case of the Horsham facility, the Pennsylvania Department of Environmental Protection (“PADEP”) had included an effluent monitoring requirement for both perfluorooctane sulfate (“PFOS”) and perfluorooctanoic acid (“PFAS”) in its National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to the Clean Water Act and Pennsylvania law. DRN was asking the Commission to require removal of these substances if detected in the plant’s effluent, and to impose a requirement for instream monitoring of PFOA and PFAS upstream and downstream of the Horsham outfall. Mr. Kovach explained that although such conditions were not included in the draft docket for the reasons set forth above, the Commission continues to support development by its member states and the United States of maximum contaminant levels, water quality criteria, monitoring protocols, and other measures for characterizing and managing PFAS compounds. The Commission also continues to perform ambient monitoring for PFAS compounds in the Estuary and to make its data available to the public on the Water Quality Portal (the “WQP”) of the National Water Quality Monitoring Council, at [www.waterqualitydata.us](http://www.waterqualitydata.us).

A number of commenters, including DRN, also submitted comments to the Commission concerning item 19, a draft docket for the New Jersey Wind Port. One commenter suggested that rather than disposing of dredged sand in Confined Disposal Facility No. 3 as planned by the project sponsors, the dredged sand should instead be used as a resource to replenish shorelines in Salem County, New Jersey to reduce the risk of storm damage and improve resiliency to storms. Mr. Kovach reported that although DRBC supports beneficial reuse of sediments, the sediments in this instance carry legacy contaminants, and in order to minimize the remobilization of these contaminants, the staff were recommending that the sediments be placed within the confined disposal facility as proposed.

Another comment by DRN concerned the impact of vessel strikes on the Estuary’s populations of threatened and endangered Atlantic and shortnose sturgeon. Although the Commission has established designated uses and water quality standards designed to protect aquatic life in the

Estuary, neither the Comprehensive Plan nor the Commission's implementing regulations address vessel strikes. The National Marine Fisheries Service ("NMFS") does consider the impact of vessel strikes on threatened and endangered species, and pursuant to the Endangered Species Act, NMFS must issue its biological opinion regarding the impacts of the project on sturgeon as part of an obligatory consultation with the United States Army Corps of Engineers ("Corps") before the Corps can issue permits for the Wind Port. DRBC's draft docket requires that the docket holder implement the recommendations of NMFS and also provides that the project sponsor must obtain all approvals required by federal, state and local authorities before it may proceed.

Another comment questioned whether dredging for the Wind Port would increase salinity concentrations or alter the location of the salt front in ways that could adversely affect the endangered sturgeon. Mr. Kovach explained that analyses to date had demonstrated that changes in river bathymetry are a secondary and relatively insignificant influence on salinity transport, which is influenced primarily by tidal forcing and freshwater inflows. The Commission staff conducted a one-dimensional analysis to determine the combined effect on Estuary salinity of dredging—both proposed and completed—for multiple projects that included the main channel deepening. The analysis showed only minor minimum and maximum differences in the predicted location of the salt front. DRBC's technical review of a 3D hydrodynamic model of the Estuary will be completed in 2022, and the cumulative effects of past and future dredging projects on the relative location of the salt front will be evaluated again with that more sophisticated tool. The results are not expected to alter the view of investigators that dredging has no significant effect on the location of the salt front.

In its comments, DRN also protested that the Commission was prematurely considering approval of its docket for the New Jersey Wind Port before relevant evaluations by other agencies, including the biological opinion by NMFS, were complete. Mr. Kovach reiterated that the Commission's docket expressly does not exempt the docket holder from obtaining required approvals from other local, state, and federal agencies, and it expressly requires the docket holder to implement any measures recommended in the biological opinion. Mr. Kovach added that because the Commission meets only four times each year, it frequently acts in advance of its member agencies in order to avoid unduly delaying projects that require multiple approvals.

Mr. Kovach concluded his presentation by recommending that the Commissioners approve docket items 2 through 19 as presented at the August 11, 2021 public hearing.

At the request of the Chair, Mr. Hoffman so moved, Ms. Kunkel seconded his motion, and without further discussion, docket items 2 through 19 were approved by unanimous vote.

Adjournment. Lt. Col. Brigantti asked the Commissioners and staff whether any other matters required the Commissioners' consideration that day. Hearing none, he adjourned the meeting.

Audio Recording. Audio recordings of the public hearing of August 11 and the business meeting of September 9, 2021 are on file with the Commission Secretary. A description of each of the applications for dockets approved during the business meeting of September 11, 2021 is provided as an attachment to these Minutes.

Open Public Comment. After the business meeting adjourned, Mr. Tambini held an Open Public Comment session for off-the-record comment by stakeholders on water resource issues affecting the Basin.

*/s/ Pamela M. Bush*

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Pamela M. Bush, Esquire

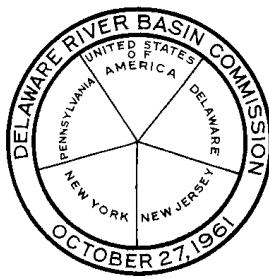
Commission Secretary and Assistant General Counsel

**ATTACHMENT A**

*Administrative Manual—Bylaws, Management and Personnel,  
as amended*

# **Administrative Manual BY-LAWS, MANAGEMENT AND PERSONNEL**

**Adopted and Effective December 13, 1961  
Revised through January 1, 2022**



**Delaware River Basin Commission**

DELAWARE • NEW JERSEY  
PENNSYLVANIA • NEW YORK  
UNITED STATES OF AMERICA

**Delaware River Basin Commission**

25 Cosey Road

P.O. Box 7360

West Trenton, NJ 08628-0360

(609) 883-9500

[www.drbc.gov](http://www.drbc.gov)

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**BY-LAWS, MANAGEMENT AND PERSONNEL**  
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***Table of Contents***

<i>Chapter / Section</i>	<i>Page</i>
<b>CHAPTER 1 DEFINITION AND SCOPE .....</b>	<b>1</b>
Section 1.1 Administrative Manual .....	1
1.2 Short.....	1
1.3 Definitions – General.....	1
1.4 Official Seal .....	1
1.5 Principal Office and Meetings .....	2
<b>CHAPTER 2 THE COMMISSION.....</b>	<b>3</b>
Section 2.1 Organization of the Commission .....	3
2.2 Presiding Officer .....	3
2.3 Meetings.....	3
2.4 Conferences.....	3
2.5 Agenda .....	3
2.6 Quorum .....	4
2.7 Voting by the Commission .....	4
2.8 Minutes.....	4
2.9 Rules of Proceedings of Meetings.....	4
2.10 Committees .....	4
2.11 Resolutions.....	4
2.12 Advisory Committees .....	4
<b>CHAPTER 3 ORGANIZATION AND STAFF.....</b>	<b>5</b>
Section 3.1 Officers.....	5
3.2 Executive Director .....	5
3.3 Deputy Executive Director.....	5
3.4 General Counsel.....	5
3.5 Secretary.....	6
3.6 Oath of Office. ....	6
3.7 Reserved.....	7
3.8 Vacancies in Principal Offices.....	7



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<b>CHAPTER 4</b>	<b>BUDGETS AND FINANCIAL PROCEDURES</b> .....	8
Section	4.1 Fiscal Year .....	8
	4.2 Annual Budgets.....	8
	4.3 Budget Operation .....	8
	4.4 Purchasing .....	8
	4.5 Bills and Claims .....	9
	4.6 Payrolls.....	9
	4.7 Disposal of Property.....	9
	4.8 Official Depositories and Check Signatures .....	9
	4.9 Independent Audit.....	9
<b>CHAPTER 5</b>	<b>PERSONNEL POLICIES</b> .....	10
Section	5.1 Definitions.....	10
	5.2 Types of Commission Employees.....	12
	5.3 Personnel Organization .....	13
	5.4 Personnel Practice .....	14
	5.5 Working Conditions .....	16
	5.6 Compensation Plans.....	17
	5.7 Fringe Benefits for Employees.....	19
	5.8 Employee Performance Rating <sup>[OBJ]</sup> .....	32
	5.9 Employee Training .....	33
	5.10 Other Activities .....	34
	5.11 Grievance Procedure .....	34
	5.12 Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace .....	36
	5.13 Disciplinary Action .....	40
	5.14 Termination of Employment .....	42
	5.15 Re-employment Eligibility.....	43
	5.16 Applicability.....	43
<b>CHAPTER 6</b>	<b>TRAVEL REGULATIONS</b> .....	44
Section	6.1 General .....	44
	6.2 Travel Authorization .....	44
	6.3 Vehicles.....	44
	6.4 Lodging .....	46
	6.5 Meals.....	46
	6.6 Other Travel Expenses .....	46
	6.7 Overtime Expenses .....	46
	6.8 Expense Report .....	47
<b>CHAPTER 7</b>	<b>GENERAL PROVISIONS</b> .....	48
Section	7.1 Prescribed Time Periods .....	48
	7.2 Role of General Counsel .....	48
	7.3 Suspension of Rules .....	48
	7.4 Effective Date .....	48

<b>CHAPTER 8</b>	<b>ELECTRONIC RESOURCES USE, ACCESS AND COMMUNICATIONS</b>	49	
Section	8.1	General	49
	8.2	Permitted Use	49
	8.3	Prohibited Use	49
	8.4	Ownership	51
	8.5	Control	51
	8.6	Privacy Limitations	51
	8.7	Voicemail	52
	8.8	Use of Cell Phones for Commission Business	52
	8.9	Social Media and Internet Postings	52
<b>CHAPTER 9</b>	<b>PURCHASING CARD</b>	54	
Section	9.1	General	54
	9.2	Permitted Uses	54
	9.3	Prohibited Uses	54
	9.4	P-Card Issuance	55
	9.5	Submission and Approval of Charges to the P-Card	56
	9.6	Unprocessed Expense Aging	56
	9.7	Waivers	57
	9.8	Non-compliance	57

## CHAPTER 1

### DEFINITION AND SCOPE

**Section 1.1 Administrative Manual.** The organization, management and personnel practices of the Commission shall be governed by the Administrative Manual.

**1.2 Short Title.** This document shall be known and may be cited as the Administrative Manual and is hereinafter referred to as the “Manual”.

**1.3 Definitions – General.** For the purposes of the Administrative Manual, except as may be otherwise required by the context:

1.3 A. *Compact* shall mean the concurrent legislation enacted by the States of Delaware, New Jersey and New York, the Commonwealth of Pennsylvania, and the United States of America, including all conditions and reservations duly enacted by the Congress of the United States.

1.3 B. *Commission* shall mean the Delaware River Basin Commission created and constituted by the Compact;

1.3 C. *Commissioners* shall mean the members of the Commission as set forth in Section 2.2 of the Compact.

1.3 D. *Executive Director* shall mean the officer by that title duly appointed pursuant to the Compact or any assistant or acting Executive Director authorized to serve in place of the Executive Director pursuant to the Manual;

1.3 E. *Person* shall mean any corporation, firm, partnership, association, organization or other entity, as well as an individual;

1.3 F. *Month* shall mean a calendar month unless otherwise specifically provided;

1.3 G. *Year* shall mean a calendar year unless otherwise specifically provided; and

1.3 H. Words and phrases defined in Section 1.2 of the Compact shall have the same meaning for the purposes of the Manual.

**1.4 Official Seal.** The official seal of the Commission shall be in the form and style as follows:



**1.5 Principal Office and Meetings.** The principal office of the Commission shall be located at 25 Cosey Road, West Trenton, New Jersey. All written communications to the Commission shall be addressed to P.O. Box 7360, West Trenton, New Jersey, 08628-0360 except as may be otherwise specifically required by any rule or regulation. Meetings of the Commission shall be held at such places and times as the Commission shall determine.

Smoking within the Commission’s principal office and vehicles is prohibited. Smoking at the Commission’s principal office may be allowed in designated areas as identified by the Executive Director.

## CHAPTER 2

### THE COMMISSION

**Section 2.1 Organization of the Commission.** The Commission shall organize annually. At its organization meeting each year, the Commission will elect a chair and vice chair from among its members. In the absence of both the chair and vice chair, the alternates appointed by the chair and the vice chair shall serve as chair and vice chair *pro tem* at any meeting.

#### 2.2 Presiding Officer.

2.2 A. The chair of the Commission shall:

1. preside at all meetings of the Commission and of the committee of the whole;
2. appoint special committees of the Commission as may be required;
3. rule on all questions of order subject to appeal to the Commission;
4. sign all resolutions of the Commission adopted in the chair's presence; and
5. have such other functions, powers and duties as the Commission may from time to time prescribe.

2.2 B. In the absence of the chair, the vice chair, and in the absence of the vice chair, the chair *pro tem* at any meeting, shall have, exercise and discharge the functions, powers and duties of the chair.

#### 2.3 Meetings.

2.3 A. *Regular meetings.* Regular meetings of the Commission shall be held at least quarterly on such dates as the Commission shall determine.

2.3 B. *Special meetings.* The Secretary, with approval of the chair and the Executive Director, may call a special meeting of the Commission.

2.3 C. *Adjourned meetings.* An adjourned meeting shall be considered a continuation of the preceding meeting, and the business of the Commission shall be resumed where it was left at the last adjournment.

**2.4 Conferences.** In addition to meetings, the Commission may confer informally for the planning of its work, consultation and staff purposes at such times and places as the Commission may determine. Such conferences shall not be deemed to be meetings within the meaning of Section 14.4 of the Compact, and no action requiring the formal approval of the Commissioners shall be taken at a conference.

**2.5 Agenda.** An agenda for each meeting of the Commission shall be prepared by the Secretary with the approval of the Executive Director. Copies of the agenda for each meeting shall be distributed to the Commissioners prior to the meeting. The Commissioners may either add or delete any item from the agenda through consultation and consensus with one another or by majority vote.

- 2.6 Quorum.** Three members, or their respective alternates, as the case may be, shall constitute a quorum of the Commission.
- 2.7 Voting by the Commission.** The vote upon every motion, resolution or action of the Commission shall be taken at a meeting and shall be entered upon the minutes.
- 2.8 Minutes.** The Secretary shall so far as practicable prepare and distribute to the Commission members the minutes of each meeting promptly after the meeting. The minutes of any meeting may be approved without reading. The minutes of each meeting and any corrections thereof duly adopted shall be signed by the Secretary.
- 2.9 Rules of Proceedings of Meetings.**
- The presiding officer at any meeting may move, second and debate from the chair and shall not be deprived of any right to vote or of any other right, power or duty of a Commissioner by virtue of occupying the chair.
- 2.9 A. The Commissioner who has made a motion shall be entitled to the privilege of closing debate.
- 2.9 B. A motion to reconsider may be made by a Commissioner on the prevailing side.
- 2.9 C. The General Counsel shall act as Parliamentarian to the Commission and will advise the Commission as to any questions concerning proceedings before the Commission. The Commission shall determine by majority rule any question of procedure.
- 2.10 Committees.** There shall be no standing committees of the Commission other than the committee of the whole. The rules of the Commission shall govern meetings of the committee of the whole so far as applicable. Special committees may be appointed by the chair pursuant to motion or resolution.
- 2.11 Resolutions.** The Commission shall act on matters of general or permanent significance by resolution. Draft resolutions shall be prepared at the request of any member of the Commission or of the Executive Director. At least one copy of each draft resolution in writing shall be provided for each member of the Commission prior to consideration at any meeting. Matters of a temporary or solely internal significance may be acted upon by motion, without formal resolution.
- 2.12 Advisory Committees.** The Commission may from time to time provide for the creation, appointment and functions of advisory committees in accordance with the Compact.

## CHAPTER 3

### ORGANIZATION AND STAFF

**Section 3.1 Officers.** The Commission will appoint an Executive Director, and all other officers and employees will be appointed by the Executive Director pursuant to the Compact. The Executive Director's appointments of General Counsel and Secretary to the Commission shall be subject to confirmation by the Commission.

**3.2 Executive Director.** The Commission will appoint an Executive Director qualified by training and experience for the duties of the office. The Executive Director is the chief executive and administrative officer of the Commission and shall:

- 3.2 A. prescribe the internal organization of the Commission's staff in such a manner as to group functions, powers and duties according to major purpose so far as practicable;
- 3.2 B. assign functions, powers and duties to subordinate officers and employees and modify such assignments as need appears;
- 3.2 C. delegate to other members of staff such powers as are deemed necessary for efficient administration;
- 3.2 D. supervise the administration of, and prescribe and enforce rules and procedures for, the efficient management of the Commission's business;
- 3.2 E. appoint and remove officers and employees of the Commission, subject to the rules prescribed by this Manual;
- 3.2 F. negotiate contracts, leases and intergovernmental arrangements for and on behalf of the Commission and, upon authorization of the Commission, execute any such document in its name;
- 3.2 G. effectuate and enforce all policies and resolutions adopted by the Commission; and represent the Commission before federal, state, local or other public or private bodies with regard to matters affecting the Commission; and
- 3.2 H. provide for the appointment of qualified persons to serve as Acting Executive Director during short-term periods when the Executive Director is absent from the office on leave, on Commission business, or because of illness or temporary disability.

**3.3 Deputy Executive Director.** A Deputy Executive Director may be appointed by the Executive Director to serve as the Executive Director during the Executive Director's absence. The Deputy Executive Director shall in addition have such responsibilities as shall be assigned by the Executive Director, or as provided by the Commission.

**3.4 General Counsel.** Subject to the requirements of Section 3.1 hereof the Executive Director will appoint a qualified attorney and counselor at law duly admitted to practice in the highest courts of one or more of the signatory states and in the federal courts for at least five years, as General Counsel. The General Counsel shall be the principal legal advisor and representative of the Commission and shall:

- 3.4 A. render such legal advice as may be required in the work of the Commission and its staff;
- 3.4 B. prepare and render formal opinions upon request of the Commission or the Executive Director;
- 3.4 C. formulate procedures for the Commission as may be required to comply with the Compact or may otherwise be required by law;
- 3.4 D. draft legislation, regulations, orders and resolutions as need appears;
- 3.4 E. review and approve for form and legality all contracts, leases, commitments, obligations and legal documents of any kind to which the Commission may be a party;
- 3.4 F. establish and supervise practice and procedure for the conduct of administrative hearings by the Commission pursuant to law; and
- 3.4 G. be responsible for the conduct and direction of litigation and other judicial proceedings in which the Commission may be a party.

**3.5 Secretary.** Subject to the requirements of Section 3.1 hereof the Executive Director will appoint a person qualified by training and experience to serve as Secretary to the Commission.

3.5 A. The Secretary shall:

- 1. attend all meetings of the Commission and record and maintain minutes of its proceedings;
- 2. maintain records of the Commission's transactions, communications and proceedings;
- 3. have custody of the seal of the Commission and affix it to such documents as may be authorized by law or regulation;
- 4. preserve and compile all resolutions adopted by the Commission; and
- 5. prepare and distribute notices of Commission meetings and hearings, and provide for the proper filing of its rules and regulations.

3.5 B. In the absence of the Secretary, the Executive Director shall designate a person qualified by training and experience to serve as Acting Secretary to the Commission.

**3.6 Oath of Office.** The Executive Director and each officer appointed by the Executive Director shall, not later than 15 days following appointment, take and subscribe an oath of office, to be filed with the Secretary in the following form:



**DELAWARE RIVER BASIN COMMISSION**

*Oath of Office*

State of \_\_\_\_\_

County of \_\_\_\_\_

I, \_\_\_\_\_, do solemnly swear that I will, support and defend the Constitution of the United States, the Constitutions of the signatory states to the Delaware River Basin Compact, and the provisions of the Delaware River Basin Compact; and that I will well and faithfully discharge the duties of the office on which I am about to enter.

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Sworn to and subscribed before me  
this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

**3.7 [Reserved.]**

**3.8 Vacancies in Principal Offices.** Vacancies among any of the principal offices of the Commission shall be filled in accordance with Section 3.1 thereof. Qualified persons may be appointed to act temporarily until the vacancy shall be filled by permanent appointment.

## CHAPTER 4

### BUDGETS AND FINANCIAL PROCEDURES

**Section 4.1 Fiscal Year.** The fiscal year of the Commission shall begin on July 1 and end on June 30 annually.

#### **4.2 Annual Budgets.**

4.2 A. *Capital budget.* On or before December 31 of each year the Executive Director shall have prepared and shall submit to the Commission a proposed capital budget for the next ensuing fiscal year. There shall be appended to such budget with respect to each project, proposed or existing:

1. a statement of the determination of cost allocations among the signatory parties or revenues anticipated as proposed by the staff;
2. a status report as to the conclusion of arrangements for financing according to the proposed cost allocations; and
3. copies of all agreements, commitments and actions taken by the signatory parties or any of them with respect to the proposed cost allocations.

The Commission will review and adopt a capital budget for the ensuing fiscal year, contingent upon receipt of revenues, appropriations, and/or grant funds, as identified.

4.2 B. *Current expense budget.* On or before December 31 of each year the Executive Director shall cause to be prepared and shall present to the Commission a proposed current expense budget for the next ensuing fiscal year. Such budget shall conform to the requirements of Section 13.3(b) of the Compact.

#### **4.3 Budget Operation.**

4.3 A. The Executive Director shall install and maintain an encumbrance system of budget operation. No expenditure or commitment shall be authorized or incurred at any time in excess of the unencumbered balance of appropriations available therefore.

4.3 B. The Executive Director may transfer appropriations from one major purpose account to another but any such transfer exceeding \$25,000 may be made only with the approval of the Commission. Any transfer of \$25,000 or less made pursuant to this section shall be reported by the Executive Director to the Commission at its next regular business meeting.

**4.4 Purchasing.** The Executive Director shall install and maintain a purchasing system conforming to Section 14.9 of the Compact.

4.4 A. Standing authorization exists for purchases made consistent with the expense budget approved in accordance with Section 4.2 B. of this Manual and the budget operation set forth in Section 4.3 of this Manual, respectively.

4.4 B. When sealed bids, notice and publication are not required by the Compact, the purchasing agent shall, whenever feasible, seek and obtain informally at least three bids or proposals for any purchase exceeding \$2,500. A record of all such informal bids shall be made and maintained by the purchasing agent.

- 4.4 C. No purchase exceeding \$50,000 shall be made without prior approval by resolution of the Commission.
- 4.5 Bills and Claims.** The Executive Director shall audit and examine or cause to be audited and examined all bills and claims against the Commission. The Executive Director shall approve each claim which the Executive Director finds to be lawfully incurred and truly stated. Such approved bills and claims shall be paid by the Director of Finance and Administration upon warrant of the Executive Director, as otherwise provided by the Manual.
- 4.6 Payrolls.** The Executive Director or a designee upon delegation by the Executive Director, and the Director of Finance and Administration or a designee upon delegation of the Director of Finance and Administration will review and approve each payroll. Payrolls shall cover gross compensation less all deductions required by law, and payments shall be made at such frequency as the Executive Director shall determine, but not less often than one each month.
- 4.7 Disposal of Property.** The Executive Director may dispose of property that is surplus, damaged or no longer required for the efficient operation of Commission programs. Such property shall be disposed of at public auction held following due notice unless, in the judgment of the Executive Director, the property is of minor value or cannot feasibly be disposed of through public auction process. The Executive Director shall provide for the maintenance of records of all Commission property disposed of pursuant to this section.
- 4.8 Official Depositories and Check Signatures.** The Commission shall designate one or more official depositories of funds of the Commission, and thereafter all funds, revenues and receipts of the Commission shall be deposited in an official depository. Withdrawals and disbursements therefore are authorized and may be made primarily by bank check and signed by the Executive Director and/or other Commission staff member so designated. Except for payroll checks, all checks shall be signed by two authorized individuals.
- 4.9 Independent Audit.** The Commission will select and designate qualified certified public accountants to make an annual audit of the financial accounts of the Commission.

## CHAPTER 5

### PERSONNEL POLICIES

#### **Section 5.1 Definitions.**

- 5.1 A. *Abandonment of Employment.* Absence for more than five consecutive days without prior or post approval.
- 5.1 B. *Anniversary Date.* The employee’s original date of employment with the Commission.
- 5.1 C. *Appointment.* Action by the Executive Director in officially hiring an employee of the Commission.
- 5.1 D. *Cash.* Legal currency and coins of the U.S. Government or checks issued by the Commission.
- 5.1 E. *Class Allocation.* The assignment of a position to one of the classes in the position classification plan.
- 5.1 F. *Class or Class of Positions.* Includes all positions which are sufficiently similar as to:
  - 1. kind of subject matter of work;
  - 2. level of difficulty and responsibility; and
  - 3. the qualification requirements of the work; to warrant similar treatment in personnel and pay administration.
- 5.1 G. *Class Re-allocation.* The reassignment of a position from one class to another to reflect:
  - 1. a correction of an error in the original assignment, or
  - 2. a change in the duties and responsibilities of the position.
- 5.1 H. *Class Title.* Official title of all individual positions classified to that class.
- 5.1 I. *Demotion.* The change in status of an employee to a lower grade level.
- 5.1 J. *Dismissal.* The involuntary termination of employment for reasons other than lack of work or funds.
- 5.1 K. *Due Process.* Procedures required under Section 5.13 of this Chapter, titled *Disciplinary Action.*
- 5.1 L. *Employee.* The person who legally occupies a position.
- 5.1 M. *General Schedule.* (Hereinafter, abbreviated as “GS”). The schedule of salary rates and ranges by grade, showing the minimum, midpoint, and maximum salaries for each grade, for the applicable fiscal year. The Executive Director shall, at regular intervals, re-evaluate the GS and adjust as appropriate and necessary as determined in the Executive Director’s discretion.

- 5.1 N. *Grade*. Includes all classes of position which, although different with respect to kind or subject matter of work, are sufficiently equivalent as to:
  - 1. level of difficulty and responsibility, and
  - 2. level of qualification requirements of the work;
- 5.1 O. *Line Supervision*. Supervises directly or through subordinates the activities of an employee.
- 5.1 P. *New Parenting*. Any situation in which a person becomes a parent to a child by virtue of birth, surrogacy, adoption, or fostering of the child.
- 5.1 Q. *Performance Rating*. An appraisal or evaluation of an employee's performance related to assigned duties in accordance with a pre-determined standard.
- 5.1 R. *Permanent Appointment*. Employees in permanent table of organization positions (full-time positions expected to recur annually) who have satisfactorily completed the probationary period.
- 5.1 S. *Position*. The work, consisting of the duties and responsibilities, assignable to one employee.
- 5.1 T. *Position Description*. A description of the current duties and responsibilities assigned or delegated to one person in a specific organizational unit.
- 5.1 U. *Position Qualifications*. Qualifications established for a position encompassing required education, training, and experience to enable an employee to perform the responsibilities of that position in a satisfactory manner.
- 5.1 V. *Primary "Bumping" Rights*. The seniority right of an employee whose current position is abolished to occupy another position of the same or lower grade level within the organizational structure for which the employee is qualified.
- 5.1 W. *Probationary Appointment*. The initial employment of a person in a "permanent" table of organization position.
- 5.1 X. *Probationary Period*. A preliminary period of employment for the purpose of determining an employee's fitness for permanent status, or, in the case of promotions, fitness to continue in the higher position.
- 5.1 Y. *Promotion Date*. The date of a change in status of an employee to a higher-grade level.
- 5.1 Z. *Reduction in Force*. The temporary or permanent termination of employment because of lack of work or funds.
- 5.1 AA. *Resignation*. The voluntary termination of employment.
- 5.1 BB. *Secondary "Bumping" Rights*. The seniority right of an employee who is bumped to be reassigned to another position at the same or lower grade level within the organizational structure for which the employee is qualified.
- 5.1 CC. *Seniority*. Seniority means the total time an employee has served in full-time permanent positions (table of organization positions).

- 5.1 DD. *Seniority List.* A listing of all Commission employees in the order of seniority.
- 5.1 EE. *Suspension.* The placing of an employee on leave with or without pay for disciplinary reasons.
- 5.1 FF. *Table of Organization.* A list of all permanent positions within the Commission.
- 5.1 GG. *Temporary Appointment.* An appointment for a limited or indefinite term as determined by the Executive Director.
- 5.1 HH. *Transfer.* The change in status of an employee to another position within the Commission.

## **5.2 Types of Commission Employees.**

- 5.2 A. *Full-Time Permanent.* An employee who has successfully completed the probationary period and has been appointed to permanent status by official action of the Executive Director. This status is available only to those employees filling table of organization permanent positions (full-time positions expected to recur annually). Employees in this category are entitled to the “due process” procedures provided in this Manual.
- 5.2 B. *Full-Time Probationary.* An employee who is hired to fill a table of organization permanent position and who is available for full-time permanent status. Employees in this category serve on an at-will basis and may be removed by the Executive Director.
- 5.2 C. *Full-Time Temporary.* An employee who is hired to fill a position with the Commission which is for a limited or an indefinite term. Employees in this category serve on an at-will basis and may be removed by the Executive Director.
- 5.2 D. *Seasonal.* An employee who is hired to fill a position with the Commission which is for an anticipated period of less than one year. Employees in this category serve on an at-will basis and may be removed by the Executive Director.
- 5.2 E. *Part-Time Permanent.* An employee hired to fill a permanent position with the Commission that requires less than a Basic Work Week, who has successfully completed the probationary period, and who has been appointed to permanent status by official action of the Executive Director. Employees in this category serve on an at-will basis and may be removed by the Executive Director.
- 5.2 F. *Part-Time Probationary.* An employee who is hired to fill a permanent position with the Commission that requires less than a Basic Work Week (as defined in Section 5.5.B), and who is available for permanent part-time status. Employees in this category serve on an at-will basis and may be removed by the Executive Director.
- 5.2 G. *Part-Time Temporary.* An employee who is hired to fill any seasonal or temporary position with the Commission which requires less than a Basic Work Week. Employees in this category serve on an at-will basis and may be removed by the Executive Director.

### 5.3 Personnel Organization.

5.3 A. *Personnel Officer.* The Personnel Officer, upon designation by the Executive Director, shall, in a staff capacity, be in charge of the personnel activities of the Commission and shall serve as the Commission’s Equal Employment Opportunity Officer. This individual shall be responsible to the Executive Director for the implementation of the Commission’s personnel policies. In addition, the Personnel Officer shall:

1. Conduct such research and make such surveys as may be required to keep the Executive Director continuously informed on any matter bearing on Commission personnel policies.
2. Maintain a continuous review of personnel policies and practices of the Commission, and report and recommend to the Executive Director such executive action needed to improve such policies and practices.
3. Prepare and recommend to the Executive Director such amendments to the compensation plan as are necessary to reflect changes in economic conditions and retention of competent employees.
4. Prepare (in concert with the appropriate line supervision) and recommend to the Executive Director such amendments to the position classification plan as are necessary to reflect changes in the nature and scope of work of positions in the position classification plan.
5. Maintain a record of all employees and positions in the position classification plan.
6. Develop standards for the establishment and maintenance of personnel records of Commission personnel.
7. Provide leadership in the application of sound principles of human relations in matters of supervision, discipline, employee adjustments, and work motivation.
8. Assist in the development of systematic training programs for the purpose of improving employee performances and organizational effectiveness.
9. Assist in recruiting applicants for position vacancies of the Commission.
10. Assist in the evaluation and investigation of applicants for Commission positions. Refer qualified applicants to Senior Management for consideration for appointment to position vacancies.
11. Provide, as needed, overall assistance to Senior Management in recruitment, interviewing, examination, appointment, position classification, compensation, training, grievances, and disciplinary problems.

5.3 B. *Personnel Folder.* A personnel folder shall be prepared for each employee of the Commission, and this file shall remain in the custody of the Personnel Officer. Employees shall be entitled to review their personnel folder by written request to the Personnel Officer. The personnel folder shall be subject to review by line supervision and the Personnel Officer.

The file shall include the following basic documents and records, where applicable:

Application of employment;  
Letter of appointment;  
Letter of permanent appointment;  
Record of military service;  
Record of reserve, draft, or military status;  
Record of membership in Commission retirement system program;  
Record of membership in Commission Health Benefits Programs;  
Record of membership in other Commission Benefit Programs;  
Record of performance ratings (copies of rating forms);

Record of changes in the employee's status, such as promotion, salary, etc.  
Record of separation.

If other information and records are deemed essential for inclusion in the personnel folder by the Deputy Executive Director or Executive Director, the employee shall be provided with a copy of all such documents and shall have the right to have a response to said document made part of the file.

- 5.3 C. *Classified Personal Information.* Certain personal material dealing with personnel of the Commission may be considered privileged material. Material so designated shall not be subject to review by persons other than the affected employee except upon the direct authorization of the Executive Director.

#### **5.4 Personnel Practice.**

- 5.4 A. *Application for Employment.* All persons seeking employment shall complete the standard Delaware River Basin Commission application for employment form, and this form shall be retained in the employee's personnel folder.

- 5.4 B. *False Information.* Applicants are held responsible for the validity of all information supplied the Commission in conjunction with their application for employment. The inclusion of false information shall be grounds for rejection of the applicant. In cases where the applicant has been employed by the Commission based upon false information, said employee shall be subject to dismissal.

- 5.4 C. *Hiring Policy.* All applicants for employment by the Commission shall be considered for appointment with respect to specific position vacancies in accordance with the following Commission policy:

It shall be the policy of the Commission to provide equality of opportunity in employment and participation in its programs. The Commission shall not discriminate against applicants on the basis of race, color, sex, sexual orientation, religious or political affiliation, national origin, age, mental or physical handicaps which are unrelated to their capacity to perform the work and programs of the Commission.

- 5.4 D. *Place of Residence.* An applicant's place of residence shall not be a factor in determining eligibility for employment.

- 5.4 E. *Background Checks of Applicants.* Any applicant for employment by the Commission shall be subject to a routine background check, following appropriate legal guidance, which may include, without limitation: social security verification; prior employment verification; contacting personal and professional references; educational verification;



criminal history; and motor vehicle records. Such background check shall be conducted prior to the new employee's commencement of employment with the Commission.

5.4 F. *Recruitment.* The Executive Director shall determine the method or methods to be used in filling vacancies; provided, however, that:

1. when the Executive Director decides to fill a vacancy through recruitment outside the Commission, the position shall be advertised widely, including on the Commission's web site and on such job recruiting platforms as may be likely to reach qualified and diverse candidates; and
2. when the Executive Director decides to fill a vacancy through recruitment from among Commission's active employees, notice of the existence of a vacancy shall be posted in both physical and virtual spaces frequented by employees, including but not limited to the lunch room bulletin board.
3. any notice of a vacancy shall contain the following minimum information:

Title of position;  
Type of appointment;  
GS grade;  
Salary range;  
Minimum educational requirements;  
Minimum experience requirements;  
Position description;  
Instructions for applicants;  
Deadline for filing application.

5.4 G. *New Employee.* All new employees shall receive a letter of appointment. The Executive Director is the only person authorized to commit the Commission to employ an applicant. The letter of appointment will indicate the following:

Starting date;  
Position title;  
GS grade or hourly rate of pay;  
Annual salary;  
Employee status;  
Description of employee status;  
Immediate supervisor;  
Any special conditions of employment.

5.4 H. *Probationary Period.* All employees classified as full-time probationary shall serve a one-year probationary period. This period will begin on the employee's first working day. The Executive Director may, for due cause and upon written notice to the employee, extend or reduce this period if and when circumstances warrant. During the initial probationary period or any extension thereof, the employee serves at will, and may be terminated for any reason by the Executive Director.

5.4 I. *Promotional Probationary Period.* All employee promotions shall be subject to a one-year probationary period. The employee shall function in the new position and pay status until action has been taken either to:

1. make the promotion permanent; or

2. return the employee to the former position and pay status.

5.4 J. *Permanent Appointment.* An employee shall acquire permanent status upon satisfactory completion of the probationary period. Each employee receiving permanent status shall be formally notified in writing by the Executive Director of the permanent appointment and its effective date.

## 5.5 Working Conditions.

5.5 A. *Basic Work Day.* The basic work day for all Commission employees, except as hereinafter provided, shall be a seven and one-half hour day; generally within the period from 7:00 a.m. to 5:30 p.m.

5.5 B. *Basic Work Week.* The basic work week for all Commission employees shall be 37.5 hours, Monday through Friday.

5.5 C. *Flex Work Schedule.* The Executive Director is authorized to establish, implement, revise, suspend and/or cancel a flex time work schedule to provide employees greater flexibility in their work schedule. Details on the available options can be found in the Employee Handbook.

5.5 D. *Special Work Week or Day.* The Executive Director is authorized to establish special hours of work including Saturday and Sunday employment for those positions or conditions requiring a special work week. Similar positions are authorized for a special work day as needed.

5.5 E. *Pay Period.* The pay period for all Commission employees shall be two calendar weeks.

5.5 F. *Tardiness.* All employees are expected to be punctual and to give their supervisor prior notice, when possible, in regard to expected tardiness. Tardiness may be cause for disciplinary action.

5.5 G. *Absence from Work.* Employees who wish to be excused from work will notify their supervisor via e-mail or another agreed-upon method as far in advance of the effective date of the leave request as practical. The supervisor will notify the employee of approval/disapproval.

In those cases where advance approval is not feasible (sick, emergency, etc.), employees are responsible for contacting their supervisor as soon as possible.

5.5 H. *Preparation of Time Reports.* Each employee shall submit time reports for approval in accordance with instructions provided by the Executive Director.

5.5 I. *Specific Assignment.* An employee who has attained the classification of Full-Time Permanent shall be subject to transfer within the organizational structure, including field and branch offices for administrative purposes, training purposes, or other reasons deemed necessary for the efficient operation of Commission activities. The term “permanent” does not in any way give an employee exclusive rights to a position. The term is used solely to reflect the employee’s rights to due process as provided for in this Manual.

## 5.6 Compensation Plans.

- 5.6 A. *Full-Time Probationary and Permanent.* Compensation will be as approved by the Executive Director in accordance with the General Schedule.
- 5.6 B. *Part-Time Probationary and Permanent.* Compensation will be as approved by the Executive Director in accordance with the General Schedule.
- 5.6 C. *Full-Time Temporary.* Compensation will be as approved by the Executive Director consistent with the General Schedule.
- 5.6 D. *Part-Time Temporary.* Compensation will be at an hourly rate approved by the Executive Director.
- 5.6 E. *Seasonal.* Compensation will be at an hourly rate approved by the Executive Director.
- 5.6 F. *Payment Frequency.* Each Commission employee will be paid bi-weekly in accordance with a schedule established by the Executive Director.
- 5.6 G. *Performance Evaluation and Performance-Based Compensation Adjustments.*

1. *Annual Evaluations and Performance Increases.* Employee performance reviews shall be conducted annually by the employee’s supervisor for the period running January 1 through December 31, in accordance with a system established by the Executive Director. A probationary employee’s performance shall be reviewed every three months (four times) during the employee’s first 12 months of employment. During the employee’s second year of employment, the employee will be reviewed for the period running from the first anniversary of the employee’s start date through December 31. Additional performance ratings may be required thereafter at the discretion of the Division/Branch Head. Otherwise, the employee’s performance will be reviewed annually each December for the service period commencing January 1 and ending December 31.

Annually, effective April 1, employees who have continuously served since May 1 of the previous year will be eligible to receive a performance increase. The Executive Director shall establish a system that will provide for the calculation and distribution of annual performance increases among eligible employees, taking into consideration the financial resources available under the approved operating budget and the performance rating of the employee. The “compa-ratio” of the employee (defined as the current salary divided by the midpoint of the grade listed in the General Schedule) may also be considered.

The Executive Director shall have the authority to deny an increase for reasonable cause, including but not limited to: misconduct, insubordination, abuse of sick leave privileges, tardiness, or unsatisfactory performance of the duties and responsibilities of the job assigned, either during or after the performance period.

2. *Professional Licenses.* It is the objective of the Commission to encourage its employees to attain recognized professional status. Certain positions require professional licenses, and the salaries for those positions include recognition of this requirement. The Executive Director is authorized to reward employees who have attained such status in positions not requiring professional licenses by an increase of

2% of their salary, not to exceed the maximum of their grade. The licenses qualifying for this reward are those issued for:

Professional Engineer;  
Professional Geologist;  
Professional Hydrogeologist;  
Professional Planner; and  
Certified Public Accountant.

Failure to maintain professional licenses may be cause for rescinding the reward or demotion in grade.

Employees may request reimbursement of professional license fees and memberships that are specifically related to the employee's duties and responsibilities as outlined in the Employee Handbook.

3. *Merit Increase.* The Executive Director, not more than once annually, is authorized to award deserving employees for exceptional service to the Commission. The Executive Director will determine the criteria for this award.
4. *Promotion.* Upon promotion, an employee will be advanced to the grade assigned to the new position classification. The salary for the employee in the new position shall reflect the skills and experience the employee possesses and transfers to the position. The salary shall be set by the Executive Director at the time of the promotion, but in no case shall the salary be less than the minimum or greater than the maximum for the grade as set forth in the General Schedule, and in no case shall the salary be less than the employee's current salary.

5.6 H. *Overtime.* Hours worked in excess of the basic work day shall constitute overtime. Compensatory time and paid overtime must be approved by both the supervisor and the Executive Director. Both compensatory time and paid overtime should be approved by the supervisor in advance whenever possible. The Executive Director shall determine whether overtime will be paid in cash or equivalent time off.

1. Non-seasonal employees holding a position classified at the E24 or higher grade are not eligible for paid overtime or compensatory time. The Executive Director may provide for an allowance of compensatory time as appropriate, but not necessarily on an hour for hour basis.
2. Non-seasonal employees holding positions classified as E12 through E22 are not eligible for paid overtime. Their performance of Commission functions outside the normal work week or day shall be recognized by allowance of compensatory time as approved by their supervisor on an hour for hour basis.
3. All employees holding positions classified N2 through N10 are eligible for either paid overtime or compensatory time as approved in advance by the supervisor, and in the case of paid overtime, also by the Executive Director.

Employees shall be compensated for overtime as follows:

- a. cash payment equal to 1-1/2 times the employee's standard hourly rate for each hour of overtime worked;
- b. equivalent time off equal to 1-1/2 hours for each hour of overtime worked.

- 5.6 I. Employees who have accumulated compensatory time shall be allowed to carry forward those hours to future years up to a maximum of 240 hours.
- 5.6 J. An employee who leaves the employ of the Commission shall be compensated in cash for compensatory time up to a maximum of 240 hours, or shall liquidate the compensatory time by equivalent time off prior to severance from employment. The Executive Director shall approve a combination of payment by cash and/or compensatory time in liquidation of compensatory time credits, as the Executive Director deems appropriate.
- 5.6 K. In the event of an employee’s death, the estate or beneficiary shall be compensated in cash for accumulated compensatory time.
- 5.6 L. The monetary value of all compensatory time shall be computed as follows:
  - Annual Salary / 26 = Gross Pay per Pay Period.
  - Gross Pay per Pay Period / 75 hours = Hourly Rate.
  - Hourly Rate \* Overtime Credit = Monetary Value.
- 5.6 M. *Payment of Accrued Vacation upon Resignation.* An employee shall be compensated in cash for vacation accumulated and unused as of the effective date of the employee’s resignation up to the maximum carryover limit set forth in Section 5.7.F.6. Alternatively, with the Executive Director’s prior approval, the resignation date may be postponed to allow vacation to be removed through time off.

**5.7 Fringe Benefits for Employees.** Each type of Commission employee is entitled to the fringe benefits outlined herein:

5.7 A. *Full-Time Probationary and Full-Time Permanent Employees:*

- Social Security
- Unemployment Compensation
- Pension/Life Insurance
- Health Benefits as provided under the State of New Jersey Health Benefits Program
- Dental Program—employee and dependents
- Vacation
- Sick Leave
- Personal Leave
- Franchise Leave
- Approved Holidays
- Special Leave with Pay
- Special Leave without Pay
- Long-Term Disability
- IRC Section 125 health benefits plan options
- State of New Jersey Temporary Disability

5.7 B. *Full-Time Temporary Employees:*

- Social Security
- Unemployment Compensation
- Pension/Life Insurance
- Health Benefits as provided under the State of New Jersey Health Benefits Program
- Dental Program—employee only
- Vacation
- Sick Leave

Personal Leave  
Franchise Leave  
Approved Holidays  
Long-Term Disability

IRC Section 125 health benefits plan options  
State of New Jersey Temporary Disability

5.7 C. *Part-Time Temporary Employees:*

Social Security  
Unemployment Compensation  
Pension/Life Insurance (subject to plan requirements)  
Health Benefits as provided under the State of New Jersey Health Benefits Program  
Dental Program—employee only (subject to plan requirements)  
Vacation

IRC Section 125 health benefits plan options (subject to plan requirements)  
State of New Jersey Temporary Disability  
State of New Jersey Mandated Sick Leave as required based on length of service  
State of New Jersey Mandated Defined Contribution Retirement Plan if not eligible for  
PERS and earns over the state-mandated amount

5.7 D. *Part-Time Probationary and Part-Time Permanent Employees:*

Social Security  
Unemployment Compensation  
Pension/Life Insurance (subject to plan requirements)  
Health Benefits as provided under the State of New Jersey Health Benefits Program  
(subject to plan requirements)  
Dental Program—employee only (subject to plan requirements)  
Vacation  
Sick Leave—prorated  
Approved Holidays—pro-rated based on scheduled weekly work schedule.

Long-Term Disability  
IRC Section 125 health benefits plan options (subject to plan requirements)  
State of New Jersey Temporary Disability

State of New Jersey Mandated Defined Contribution Retirement Plan if not eligible for PERS and earn over the state-mandated amount

5.7 E. *Seasonal:*

Social Security  
Unemployment Compensation—depending on status of employee  
State of New Jersey Mandated Sick Leave as required based on length of service  
State of New Jersey Mandated Defined Contribution Retirement Plan if not eligible for PERS and earn over the state-mandated amount

5.7 F. *Description of Benefits.*

1. *Social Security* – as provided by Federal law.
2. *Unemployment Compensation* – as provided by State of New Jersey law.
3. *Pension/Life Insurance* – Membership in the New Jersey Public Employees Retirement System, rules and regulations as promulgated by the State of New Jersey. The Commission will pay the employee the amount of an annual premium on a term life insurance policy equal to one and one-half times the employee’s base compensation.
4. *Dental Insurance* – shall be provided annually from options available through the State of New Jersey. The Executive Director shall establish on an annual basis the level of the Commission’s contribution to the dental insurance premiums of active employees and their dependents.
5. *Health Insurance* – shall be as provided by the State of New Jersey Health Benefits Program. Minimum employee contributions are mandated by state law and are based upon the full-time equivalent salary of any employee receiving the benefit. The State of New Jersey Health Benefits Program establishes on an annual basis the level of employee contributions toward the health insurance premiums for active employees and their dependents.

*Retirees:* Since January 1, 2006, the eligibility of current DRBC employees for a health benefit in retirement has been defined by Resolution No. 2005-14, adopted pursuant to N.J.S.A. 52:14-17.38 (also known as “Chapter 48”) for seven classes of eligible retirees. However, the amount of the benefit, expressed in terms of the percentage of health insurance premiums to be covered by the Commission for the retiree, surviving spouse, and dependents, is no longer determined solely by that resolution.

Pursuant to a New Jersey statute enacted in 2011, known as “P.L. 2011, Chapter 78” (also simply “Chapter 78”), with limited exceptions, the State of New Jersey imposed a requirement that all public employees who retire after June 28, 2011 and receive employer-paid health benefits must make a minimum standard contribution to the cost of their health insurance premiums.

The amount of an individual’s health benefit upon retirement is now determined by reference to three key documents:

- a. Resolution No. 2005-14 identifies the seven (7) classes of Commission retirees who are eligible to receive a health care insurance benefit in retirement, and the corresponding Chapter 48 benefit for each.

- b. The Health Benefit Contribution Tables established by Chapter 78 establish the minimum percentage contribution by retirees for their health care benefits.<sup>1</sup> See: <https://www.state.nj.us/treasury/pensions/documents/hb/oe2021/ha0886.pdf>. Where the minimum retiree contribution established by Chapter 78 exceeds the retiree contribution defined by Resolution No. 2005-14, the Chapter 78 minimum controls.
- c. The health insurance plan choices and corresponding premiums for any given plan year establish the benefit amounts from which the employees' percentage contributions are deducted. See: <https://www.state.nj.us/treasury/pensions/hb-retired-shbp.shtml>.

The seven classes of DRBC employees eligible for health benefits upon retirement as defined by Resolution No. 2005-14, and the benefits originally assigned them by that resolution (“Chapter 48 benefits”) are described below.<sup>2</sup> With the exception of employees in Class 2 however, as of 2021 all active DRBC employees who attain eligibility for a health benefit upon retirement will be subject to the minimum retiree contributions established by Chapter 78, P.L. 2011 of New Jersey.

- Class 1: For employees retiring on ordinary disability or accidental disability having met the service requirement established by the Public Employees' Retirement System (“PERS”) regulations, the Chapter 48 benefit included 100 percent of the health care premium for the retiree, retiree's surviving spouse, and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.
- Class 2: For employees who attained more than 20 years of service credit in PERS prior to January 1, 2006 and who retire with 25 years or more of service credit in PERS, the Chapter 48 benefits consist of 100 percent of health care premiums and Medicare Part B reimbursements for the retiree, retiree's surviving spouse, and dependents. These benefits, “grandfathered” by Chapter 78, are not subject to the minimum retiree contribution requirement.
- Class 3: For employees hired prior to January 1, 2006 who had attained fewer than 20 years of service credit in PERS by that date and who retire with 25 years or more of service credit in the PERS system, including at least 10 years of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the health care premium for the retiree, retiree's surviving spouse, and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.
- Class 4: For employees hired on or after January 1, 2006 who retire with 25 years or more of service credited in the PERS system, including at least 10 years of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the health care premium for the retiree and 50 percent of the premium for the retiree's

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<sup>1</sup> To use the linked worksheet and tables, it is necessary to understand: (a) that under New Jersey law concerning pensions and benefits, the Commission is considered a “Local Government Employer” and the Commission's employees, “Local Government Employees”; and (b) that a retiree's “annual retirement allowance” is the amount of the employee's annual pension.

<sup>2</sup> In the event of any discrepancy between the narrative furnished here, on the one hand, and the provisions of DRBC Resolution No. 2005-14 and applicable New Jersey law, on the other, the resolution and state law are controlling.



surviving spouse and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.

- Class 5: For employees hired prior to January 1, 2006 who retire at age 62 or older after 15 or more years of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the health care premium for the retiree and 75 percent of the premiums for the retiree’s surviving spouse and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.
- Class 6: For employees hired after January 1, 2006 who retire at age 62 or older with 15 or more years of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the premium for the retiree and 75 percent of the premiums for the retiree’s surviving spouse and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.
- Class 7: For employees in the positions of Executive Director and Deputy Executive Director who retire after 15 years or more of service with the Commission at age 62 or older *or* who retire with 25 years of credit in the PERS system and at least 10 years or more of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the premium cost for the retiree, spouse and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.

Not all those eligible for a pension under PERS will necessarily receive a health benefit in retirement. Retirees who do not meet the criteria for any of the seven classes defined in Resolution No. 2005-14 are not eligible for DRBC health benefits upon retirement.

6. *IRC Section 125 Health Benefits Plan Options* – Section 125 of the Federal Internal Revenue Code allows an employee the opportunity to set aside before-tax dollars to pay for qualified medical, dental and dependent care expenses. The Executive Director is authorized to establish Section 125 health benefits plan options as the Executive Director deems appropriate. The available options are outlined in the Employee Handbook,
7. *Vacation* – Commission employees shall earn vacation credits in the following manner:

*Full-Time Employees:*

<u>Years of Service</u>	<u>Annual Rate (Days) Vacation Credit</u>	<u>Hourly Rate per 2-Week Pay Period</u>
0	13	3.75
1	14	4.04
2	15	4.33
3	16	4.62
4	17	4.90
5	18	5.19
6	19	5.48
7	20	5.77

When hiring individuals for full-time senior and management positions (those classified E-22, E-24 and E-26 in the grade structure established by Resolution No. 2003-15), the Executive Director is authorized to award vacation credits in excess of the number otherwise prescribed for new hires, but not to exceed 20 vacation days per year.



- Part-Time Permanent Commission Employees retiring from the Commission under the Rules and Regulations of the New Jersey Public Employees' Retirement System shall be afforded a like benefit for unused sick leave.

*State of New Jersey Mandated Sick Leave* – Part-Time Temporary Employees and Seasonal Employees are eligible for State of New Jersey Mandated Sick Leave. These employees will accrue for every 30 hours worked, one hour of sick leave and shall be eligible to use the earned sick leave beginning on the 120<sup>th</sup> calendar day after the employee commences employment.

9. *Extended Sick Leave* – Absence for illness or physical disability in excess of five consecutive work days shall be considered extended sick leave. Employees are required to provide a doctor's certification that:
  - The employee was ill or disabled for the period indicated and not able to work;
  - The employee is now able to return to work.

10. *Donated Leave Program.*

INTENT. The intent of the donated leave program is to provide a means to assist employees who, because of long-term personal illness, have exhausted their leave benefits and would otherwise be subject to a severe loss of income during a continuing absence from work. The program is not intended to provide supplemental income which would result in compensation levels exceeding normal wages for employees who have other sources of substitute income such as that provided by disability insurance programs.

POLICY. It shall be the policy of the Commission to administer the Donated Leave Program in such a manner as to ensure the intent is met without interfering with any employee's rights to privacy as otherwise protected by Federal or State law, rules or regulations.

An employee shall be prohibited from threatening or coercing or attempting to threaten or coerce another employee for the purpose of interfering with rights involving donating, receiving or using donated leave time. Such prohibited acts shall include, but not be limited to, promising to confer or conferring a benefit such as an appointment or promotion or making a threat to engage in, or engaging in, an act of retaliation against an employee. Such acts will be considered grounds for disciplinary action.

The identity of all donors shall be kept confidential by the Commission.

All rights and benefits of a leave recipient continue to accrue while using donated leave time as if employee was using personally accrued leave time.

DEFINITIONS.

*Employee* – shall mean any full or part-time employee on the Commission payroll who would normally earn sick, vacation and administrative leave.

ELIGIBILITY.

a. *Recipient eligibility:*

1. Employee must have completed at least one year of continuous service with the Commission;
2. Employee is suffering from a severe health condition or injury which is expected to require a prolonged absence from work by the employee;
3. Employee must have exhausted all accrued sick, vacation and administrative leave in addition to any earned compensatory time;
4. Employee must not receive any supplemental income, other than that provided by the Commission that would result in a compensation level exceeding their normal wages during participation in the Donated Leave Program;
5. Employee must also receive at least five (5) sick or vacation days or a combination thereof from one (1) or more donors to participate up to a career maximum of 250 days. Donated time shall not be credited on a retroactive basis;
6. Employee, or member of the employee's family, must consent to the posting of a notification of the employee's need and approval to be a recipient of donated leave time.

b. *Donor eligibility:*

1. Donor must have remaining after donation at least 20 days of accrued sick leave if donating sick leave and at least 10 days of accrued vacation leave if donating vacation leave;
2. Donor must donate whole sick or whole vacation days.
3. The donor may not donate more than 10 such days to any one recipient.

RESPONSIBILITIES.

Employees wishing to participate as a recipient are responsible for providing the Commission with medical verification from a physician or other licensed health care provider concerning the nature and anticipated duration of the disability resulting from the serious health condition or injury. (Note: A member of the immediate family may file the application on behalf of the employee when such employee is unable to do so on the employee's own behalf.)

Employees wishing to participate as a recipient are responsible for using any donated leave only (i) after exhausting all personally accrued sick, vacation and administrative leave in addition to any earned compensatory time and (ii) before using any State of New Jersey Temporary Disability or Long Term Disability leave.

The Executive Director or Medical Designee shall be responsible for reviewing the medical documentation provided by the employee and making a determination of eligibility as a participant in the Donated Leave Program. The review shall only determine or clarify if the employee's physical condition would qualify the employee for eligibility in the program. All documentation submitted will become part of the employee's permanent personnel file and will not be released without the written authorization of the employee or employee's designee.

The Personnel Officer shall be responsible for establishing the necessary internal operating procedures which provide for: (1) timely processing of employee applications to the recipients; (2) notification to all Commission employees of eligible recipients; and (3) establishment of a recordkeeping system which can track donated time by recipient and donor, time used and balances returned.

The Personnel Officer shall be responsible for the investigation of any complaints received from employees regarding acts of coercion or retaliation as prohibited by this Policy and Procedure.

PROCEDURES.

The Employee shall:

Upon being taken ill or incurring an injury of a catastrophic nature which is anticipated to result in a disability of a prolonged nature which will cause the exhaustion of all accrued leave time, as described in Eligibility Paragraph A.3 above, submit the Recipient Application and Affidavit with any supporting documentation. (Note: in instances where the employee is unable to file the necessary forms, they may be filed by a member of the immediate family.)

The Personnel Officer shall:

- a. Upon receiving application for participation, request the Personnel Officer to review the employee's leave and current payroll status.
- b. Complete review of medical documentation made available with regard to severity and anticipated absence, consulting with employee's physician if necessary.
- c. Initiate a review of the employee's leave and current payroll status as requested by the Executive Director. Upon receipt of Recipient Application and Affidavit and medical approval, verify that employee meets all other eligibility requirements.

Advise the employee in writing if found to be ineligible as a participant and reasons for ineligibility.

- d. Prepare a notice announcing the employee as an eligible recipient. All announcements should indicate that Donor Transfer Forms are available from the Personnel Officer.
  - e. Once minimum required donations are received on behalf of the recipient, advise employee by letter of approval and payroll status. Recipients should be periodically updated as to the status of donations received.
  - f. Upon the recipient's return to work or separation from the Commission, determine if there is an unused balance of donated leave time. Any unused donated leave time shall be returned to the donor(s) on a prorated basis, except if the prorating of leave days results in less than one day per donor to be returned. Advise donor(s) accordingly of all adjustments made to leave balances.
11. *Other Absence* – The following types of absence may be charged to sick leave with the approval of the Executive Director:
    - Illness or death in the employee's immediate family;
    - Visit to doctor or dentist (immediate family);
    - Maternity or New Parenting in the employee's immediate family—not to exceed two weeks.
  12. *Reinstatement of Sick Leave* – Any employee who has been separated as a result of layoff and is reinstated from a re-employment priority list shall be entitled to full restoration of unused sick leave lost at the time of separation.
  13. *Personal Leave* – Leave with pay for personal business. This type of leave is in addition to other leave credits. Full-time employees are entitled to 30 hours of personal leave per fiscal year, pro-rated as of the date of such employee's termination. This leave cannot be carried over to the next fiscal year and will not be paid out upon termination. If an employee uses more personal leave time than accrued at time of termination, employee will be required to reimburse the Commission either by deducting from any vacation or compensation time payout.
  14. *Franchise Leave* – Leave for the purpose of voting in the General Election each year – three hours.
  15. *Approved Holidays* – The Commission recognizes the annual holidays set forth below, and the Commission's offices will be closed to the public and employees on each such holiday.

New Year's Day  
Martin Luther King Jr.'s Birthday  
Presidents Day  
Memorial Day  
Juneteenth  
Independence Day  
Labor Day  
Columbus Day/Indigenous Peoples Day  
Veterans Day

Thanksgiving Day  
Christmas Day

When any of the above listed holidays falls on a Saturday, it shall be observed on the previous Friday.

When any of the above listed holidays falls on a Sunday, it shall be observed on the following Monday.

In each calendar year, the Executive Director will authorize one additional holiday in conjunction with a national holiday.

The Executive Director may also authorize such other Commission holidays, as circumstances dictate, commensurate with special observances or occasions appropriate to any of the signatory parties.

The Commission recognizes that in addition to the traditional government holidays listed above, individuals and groups from diverse backgrounds celebrate other holidays throughout the year that are not listed. Employees may request leave to celebrate these holidays using available vacation, personal leave, earned compensatory time off, or unpaid leave. Unless there are critical needs that would prevent approval of requested leave time, direct supervisors are encouraged to support these holidays.

16. *Special Leave with Pay.*

- a. *Advanced Full Pay Sick Leave Credits.* At the discretion of the Executive Director, full pay sick leave credits may be advanced to an employee absent due to personal illness or physical disability, who has exhausted such employee's accumulated sick leave and vacation credits. Such advanced sick leave credits shall be repaid as soon as practicable after the employee's return to duty from subsequent accumulation of applicable credits. The outstanding unrepaid sick leave credits advanced to any employee under this provision shall not at any time exceed a total of ten days.

Upon termination of the employee's services, any such advance sick leave not previously repaid or offset shall be deducted from the salary or wages of the employee.

- b. *Administrative Leave.* At the discretion of the Executive Director, administrative leave with pay may be authorized in those instances when conditions warrant this action. Examples, but not limitations, are:

- (1) extraordinary weather conditions;
- (2) equipment breakdown; or
- (3) acts of God.

Employees on a paid leave status when administrative leave is authorized will be charged with leave as though no closing occurred.

- c. *Leave Due to Injury or Disease Incurred in the Performance of Duty.* Any employee of the Commission who is absent, by direction of a physician, from duty because of occupational injury or disease falling within the scope of the Worker's

Compensation Law, pending adjudication of the case, and while the disability renders the employee unable to perform the duties of the position, may be granted leave with full pay. This leave shall not exceed six months and is subject to the approval of the Executive Director.

Should the disability persist beyond this period, the employee may then use accumulated sick leave credits, advance sick leave benefits, and following this, the employee may then request to be placed on special leave without pay for a further period not to exceed six months. When such employee is awarded Worker's Compensation for the period of leave with pay, the employee then shall compensate the Delaware River Basin Commission for the proper share of the pay involved as soon as Worker's Compensation is received.

- d. *Leave for Court or Jury Attendance.* On proof of the necessity of jury service or attending court session pursuant to subpoena or other order of the court, an employee shall be granted a leave of absence by the Executive Director. The employee shall be paid the normal rate of pay less whatever compensation (not expenses) the employee receives for jury service or court attendance.
- e. *Leave for Quarantine.* If an employee who is not ill is required to remain absent because of quarantine, and presents a written statement of the attending physician or local health officer proving the necessity of such absence, the employee shall be granted leave with pay for the period of the required absence. This absence will not be charged against the employee's other leave credits. Prior to return to duty, such employee may be required to submit a written statement from the local health officer having jurisdiction that the return to duty is in accordance with applicable health requirements.
- f. *Leave of Absence with Pay for National Guard or Reserve Duties.* Employees of the Commission who are members of any National Guard unit of the signatory parties, or who are members of any reserve component of the U.S. Armed Forces, are entitled to a leave of absence without loss of pay in order to engage in field training authorized by the applicable authorities. An employee on leave of absence under this provision shall return to Commission employment within a period of time designated by the Executive Director.

This type of leave will not normally exceed 15 work days in any calendar year, and in addition, this type of leave will not be charged in connection with other earned types of leave. See Sections 16.e. and 16.f for active duty provisions.

17. *Special Leave without Pay.*

- a. Time spent on leave without pay will not be eligible for credit toward an increment; therefore, the anniversary date of the employee will be changed to reflect the loss of this credit.
- b. A full-time probationary or permanent employee on leave without pay will not be eligible for the following types of fringe benefits:



Social Security  
Unemployment Compensation  
Pension/Life Insurance  
Vacation accrual  
Sick leave accrual  
Personal leave  
Franchise leave  
Holiday pay

- c. A full-time probationary or permanent employee on leave without pay due to personal illness and/or maternity leave will receive the same Commission-paid health benefits, dental benefits and life insurance coverage as if the employee were an active employee, for a period not to exceed 12 months unless otherwise extended by the Commission. Employee contributions will be on an after-tax basis during unpaid leave and must be received by the first of each month in which coverage is effective for medical and dental coverage. The employee must follow the NJ State benefits guidelines for supplemental life insurance coverage.
- d. *Maternity and New Parenting Leave.* A pregnant or New Parenting employee holding a position by permanent appointment shall be granted a leave of absence without pay for a period that, together with any leave taken by the pregnant or New Parenting employee in connection with the same pregnancy or New Parenting situation pursuant to the Temporary Disability and Family Leave Insurance programs (as set forth in Section 5.7.F.18 and Section 5.7.F.19, respectively) is equal to six months cumulatively, which may be extended by the Executive Director to a maximum of one year.

The pregnant or New Parenting employee may be allowed to reduce the period of unpaid leave by the use of any or all earned leave credits. A physician's statement as to the fitness of a pregnant employee for the performance of duties may be required at any time before leave commences, and is required prior to return to duty.

- e. *Leave for National Emergency.* A permanent employee may, at the discretion of the Executive Director, be granted a leave of absence without pay for a period of time in order to enter military service of the United States or its associated powers in time of national emergency, or to engage in defense industries for the United States or its associated powers. Such leave of absence shall not extend beyond six months after the termination of the national emergency, as determined by Congress or Presidential proclamation.

Service in a National Guard unit federalized in a national emergency shall fall within the provision of this section. Employees who enlist or are drafted into alternative civilian service shall be subject to the provisions of this section.

- f. *Leave for State Emergencies.* A permanent employee, at the discretion of the Executive Director, may be granted a leave of absence without pay during a period of time that the employee is called into state service in connection with obligations in the National Guard, civil defense, or other similar types of recognized organizations. Normally, this type of leave would apply during specific periods of emergency including disaster emergencies, and will be based upon a formal proclamation of the applicable authority. A leave of absence under this provision

shall not extend beyond 48 hours after the release of the employee from the emergency obligation.

- g. *Leave for Service with a Signatory Party.* A permanent employee may be granted a leave of absence without pay at the discretion of the Executive Director, in connection with the employee's appointment to a position with any of the signatory parties which is in an exempt or noncompetitive class of the applicable signatory party. An employee may request extensions for additional periods of one year, provided, however, that no such leaves of absence under this provision, including extensions, shall extend beyond three years.
- h. *Leave for Special Assignment.* A permanent employee may, at the discretion of the Executive Director, be granted a leave of absence without pay in filling special assignments with recognized organizations, either governmental or private. Enrollment at an educational institution to fulfill the requirements of a high school diploma or college degree shall fall within the provisions of this section. The basic criteria shall be that it is in the interest of the Commission's activities. A leave of absence under this provision shall expire at a time designated by the Executive Director.
- i. *Leave for Personal Purposes.* A permanent employee may, at the discretion of the Executive Director, be granted a leave of absence without pay for purposes that are of a personal importance to the employee. A leave of absence under this provision shall expire at a time designated by the Executive Director, taking into consideration all factors involved in the release of the employee from regular assignment.

18. *Temporary Disability* – This mandatory benefit will consist of enrollment in the New Jersey Temporary Disability Insurance Program commencing at the inception of employment. Employee cost is deducted from employee wages as determined by the State of New Jersey Department of Labor and Workforce Development.

19. *Family Leave Insurance* – This mandatory benefit will consist of enrollment in the New Jersey Family Leave Insurance Program commencing at the inception of employment. Employee cost is deducted from employee wages as determined by the State of New Jersey Department of Labor and Workforce Development.

**5.8 Employee Performance Rating.** An Employee Performance Rating System shall be maintained for all employees of the Commission. The main objectives of the performance rating system are as follows:

- To align employee work plans with agency and branch priorities and direction,
- To review progress in attaining review period goals and objectives,
- To recognize exemplary performance and identify opportunities to improve sub-standard performance,
- To provide a forum for employee/supervisor dialogue in a context of continuous improvement of the organization.

Performance rating is a continuous process which involves observation, evaluation, discussion, criticism, assistance, and recognition.

- 5.8 A. *Rating Period.* Each probationary employee (new or promotional) shall receive a performance rating at the end of each three months during the probationary period. Additional ratings may be requested at the discretion of the Division/Branch Head. Full-Time Temporary employees shall be rated at least four times during the first year of employment. During the year immediately following the probationary year, employees will receive a performance rating for the period running from the end of the probationary period to December 31. Additional performance ratings may be required thereafter at the discretion of the Division/Branch Head. Otherwise, permanent employees shall be rated once each year for the service period commencing January 1 and ending December 31.
- 5.8 B. *Raters.* The performance rating report shall be completed by the immediate supervisor of each employee and reviewed by the rater's immediate supervisor. The Division Branch Head must review and approve/disapprove all performance ratings of personnel in the Division.
- 5.8 C. *Review with Employee.* The supervisor shall discuss the rating with the employee in detail. In doing so, the supervisor has the responsibility to indicate ways in which the employee's performance can be improved. An employee who does not agree with the rating shall be entitled to an interview with the reviewing officer and/or follow the grievance procedures contained in these regulations.
- 5.8 D. *Ratings.* The Executive Director shall develop a system of performance ratings as identified in the Employee Handbook. An overall unsatisfactory rating or a rating that indicates that job requirements are not being met may result in the actions identified in Section 5.13.
- 5.8 E. *Procedures.* The Personnel Officer shall design the standard forms and procedures to govern the administration of the performance rating system. The forms and procedures to be included in the rating system shall be approved by the Executive Director, and may vary depending upon position title or position responsibilities.

**5.9 Employee Training.** Employees receive appropriate training and instruction applicable to their current responsibilities and for advancement to more responsible positions (within budget limitations).

- 5.9 A. *In-Service Training.* Where applicable, such training shall be conducted during working hours.
- 5.9 B. *Out-Service Training.* Employees are encouraged to utilize educational institutions, workshops, conferences sponsored by professional societies, and specialized training courses conducted by private and public agencies in promoting their professional development. Consideration shall be given in regard to workshops, conferences and short-term specialized training courses to have all or part of the travel expenses involved absorbed by the Commission. The Executive Director shall determine the eligibility of an employee to receive assistance through provisions of this section. The basic criteria will require that the out-service training is specific to the employee's work, and further, that the desired training is not available through in-service facilities.

If the out-service training occurs during an employee's regular working hours, special leave time with pay may be granted to allow the employee to complete the requirements of the specific out-service training.

## 5.10 Other Activities.

- 5.10 A. Commission employees may participate in civic and community activities as long as they do not conflict with the employee's duties and responsibilities to the Commission.
- 5.10 B. *Outside Employment and Affiliations.* Commission employees are permitted to hold other working positions and affiliations only so long as such additional positions or affiliations do not create conflicts of interest in their work for the Commission, and does not reduce the employee's efficiency and effectiveness in performing Commission work.

Within the provisions of this section, it is intended that professional employees of the Commission may accept specific teaching assignments at a recognized college or university. However, if any teaching assignments involve in any way the work day of employees, then this assignment would be subject to the approval of the Executive Director.

Employees will be required to review the Guidelines and Procedures for Preventing Conflicts of Interest in Connection with Outside Activities and complete the Conflict of Interest Questionnaire.

### 5.10 C. *Political Activities.*

An officer or employee of the Commission may not:

Be a candidate for nomination or election to public office where political party labels are used, and may not solicit others to become candidates.

Solicit or receive any assessment or contribution for any political purposes (but may make a voluntary contribution to any party or candidate).

## 5.11 Grievance Procedure. Any permanent employee of the Commission, who has a grievance pertaining to employment with the Commission, shall be entitled to a full and fair review of said grievance. The method of resolving grievances shall be as follows:

### 5.11 A. *Grievances Pertaining to Work Conditions.*

1. The employee shall first discuss the grievance with the immediate supervisor. Resolving grievances at the immediate supervisory level is encouraged. If the first level is the Executive Director, the Executive Director shall make the adjudication.
2. Grievances not settled at the immediate supervisory level shall then be presented in writing to the appropriate next level supervisor and to the Personnel Officer by the employee, indicating the nature of the grievance and general background of the discussion with the employee's immediate supervisor. The appropriate next level supervisor shall be furnished with a written statement of the problem and the previous discussion by the immediate supervisor. The appropriate next level supervisor and the Personnel Officer then will attempt to resolve the grievance to the satisfaction of all concerned. If the next level supervisor is the Executive Director, the Executive Director shall make the adjudication.
3. If the grievance is not resolved by the next level supervisor, it shall be forwarded to the Deputy Executive Director or Executive Director for further review. In doing so, the next level supervisor will attach a summary of actions taken in regard to the initial grievance.

4. The Deputy Executive Director and Executive Director, upon receiving the grievance from the next level supervisor, shall then make the adjudication.
5. The Personnel Officer shall be advised of all grievances not settled at the immediate supervisory level and shall be a party to the discussions as the grievance proceeds to the various levels.

5.11 B. *Grievances Pertaining to Discrimination.*

1. *Pre-Complaint Processing.*

An employee having a grievance relating to discrimination of any kind shall contact the Personnel Officer within 30 calendar days of the alleged discriminatory event. If the complaint arises in the Administrative Division, the Deputy Executive Director shall be contacted rather than the Personnel Officer. The following procedures will be followed:

The Personnel Officer shall attempt to resolve the complaint informally within 21 days after having been contacted by the employee. If the Personnel Officer is unable to resolve the complaint, the employee shall be so notified in writing and shall be provided with a copy of these regulations.

If the complaint is not satisfactorily resolved within the 21-day period, the employee may submit the complaint in writing to the Personnel Officer. Such written complaint shall be submitted within 15 days following conclusion of the Personnel Officer's attempt to resolve the complaint informally.

2. *Complaint Processing.*

Upon receiving a written complaint of alleged discriminatory action, the Personnel Officer shall assign a person to investigate the complaint. The investigator so assigned shall be from an organizational unit of the Commission other than the one from within which the complaint arose.

The investigator shall inquire into the facts of the complaint and shall submit a written report of findings but without recommendations. Copies of the investigator's report shall be made available to the employee and the Personnel Officer. The Personnel Officer shall attempt to resolve the complaint informally on the basis of the investigator's report.

If the complaint remains unresolved, the Personnel Officer shall recommend a decision to the Executive Director and shall notify the employee of said recommendation. The employee shall have the right to a hearing before the Executive Director based upon the Personnel Officer's recommended disposition of the complaint.

The Executive Director shall make an agency decision on the complaint after receiving the recommendations of the Personnel Officer, reviewing all relevant documents pertaining to the complaint, and holding a hearing for the employee, if so requested. A copy of the Executive Director's decision shall be made available to the employee. The employee may appeal the Executive Director's decision to the Commission within 15 days of its receipt, or may file a civil action in an appropriate U.S. District Court within 30 days.

5.11 C. *Appeals Procedure.*

If the employee appeals to the Commission, the Commission shall arrange for the appointment of a complaint examiner who shall not be an employee of the Commission.

The complaint examiner shall review the case in its entirety and may require additional investigation by the Commission, and/or hold one or more hearings on the complaint. A written report of findings and recommendations (hearings recorded and transcribed verbatim) shall be submitted by the complaint examiner to the Commission.

The Commission shall make a decision which shall be final. The Commission decision shall include an explanation of the reasons for any rejection or modification of any of the complaint examiner's recommendations. The employee shall be given a copy of the Commission decision and the complaint examiner's report.

5.11 D. *Complainant Employee Rights.*

The employee shall have the right to file civil action in an appropriate U.S. District Court:

- within 30 calendar days of receipt of an agency decision by the Executive Director, or
- after 180 calendar days from the date of filing a complaint if no agency decision has been made by the Executive Director, or
- within 30 days of receipt of notice of final action taken by the Commission on the complaint, or
- after 180 calendar days from the date of filing an appeal with the Commission if a final action has not been taken by the Commission,
- The filing of a civil action by the employee shall not terminate processing of a complaint by the Commission under these regulations.

**5.12 Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace.**

5.12 A. *Policy.*

The Delaware River Basin Commission is committed to providing every employee with a workplace free from unlawful discrimination. All forms of unlawful employment discrimination based upon race, creed, color, national origin, ancestry, age, sex, marital status, familial status, gender, gender identity, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability are prohibited and will not be tolerated. Sexual harassment is a form of unlawful gender, gender identity discrimination and, likewise, will not be tolerated.

Unlawful discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. This policy applies to all employees. The Commission will not tolerate harassment or discrimination by anyone in the workplace including supervisors, co-workers, or non-employees. This policy applies to conduct which occurs in the workplace and also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the workplace, such as any field location, any off-site business-

related social function, or any facility which Commission business is being conducted and discussed.

This policy also applies to third party harassment. Third-party harassment is unwelcome behavior of a sexual, racial or derogatory nature, that is not directed at an individual but is a part of that individual's work environment, and such third-party harassment is prohibited by this policy.

This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, compensation, fringe benefits, working conditions and career development.

5.12 B. *Prohibited Discrimination or Harassment.*

It is a violation of this policy to engage in any employment practice or procedure which treats an employee less favorably based upon a person's race, gender, gender identity, national origin or ancestry, religion, age, disability, affectional or sexual orientation, marital status, familial status, atypical hereditary cellular or blood trait, genetic information, or liability for service in the Armed Forces of the United States. It is also a violation of this policy to use derogatory or demeaning slurs to refer to a person's race, gender, gender identity, age, religion, disability, affectional or sexual orientation, or ethnic background which have the effect of harassing an employee or creating a hostile work environment. Harassment or the creation of a hostile work environment can occur even if there was no intention on the part of an individual to harass or demean another.

5.12 C. *Examples of Behaviors that May Constitute Prohibited Workplace Discrimination or Harassment Include, but are Not Limited to:*

1. Discriminating against an individual with regard to terms and conditions of employment because of that individual's race, gender, gender identity, age, religion, disability, affectional or sexual orientation, place of origin, or the individual's ancestral origin.
2. Treating an individual differently because of race, gender, gender identity, age, religion, disability, affectional or sexual orientation, place of origin, or ancestry, or because an individual has the physical, cultural or linguistic characteristics of a racial or national origin group.
3. Treating an individual differently because of marriage to or association with persons of a racial, religious or national origin group; or due to membership in or association with an organization identified with the interests of a racial, religious or national origin group; or because an individual's name or spouse's name is associated with a racial, religious or national origin group.
4. Calling another by an unwanted nickname which refers to one or more of the above characteristics, or telling ethnic jokes which harass an employee or create a hostile work environment.
5. Using derogatory references regarding any of the above characteristics in any job-related communication.
6. Engaging in threatening, intimidating, or hostile acts, in the workplace, based on the foregoing classifications.

7. Displaying or distributing material in the workplace that contains language or images that are derogatory or demeaning, based upon any of the foregoing classifications.

5.12 D. *Sexual Harassment.*

1. It is a violation of this policy to engage in sexual harassment of any kind. For the purposes of this policy, sexual harassment, with or without sexual conduct, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:
  - a. submission to such conduct is made either explicitly or implicitly a term or condition for an individual's employment;
  - b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
2. Sexual harassment generally falls into two categories:
  - a. *Quid Pro Quo Sexual Harassment* is a form of harassment that may include unwelcome sexual advances for sexual favors or other verbal or physical conduct based on the gender, gender identity of the affected employee when:
    - (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment;
    - (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions.

It shall be a violation of this policy for any person to use the person's authority to make any sexual advance toward an individual over whom the person is authorized to make, recommend or otherwise to influence personnel actions; to grant, recommend, or refuse to take personnel action on the basis of an employee's gender, gender identity or sexual orientation or in exchange for sexual favors; or to take or fail to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, or actions.

- b. *Hostile Work Environment Sexual Harassment* is a form of harassment that may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Gender- and gender identity-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's employment opportunities.
- c. *Third-party harassment* is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.



5.12 E. Examples of prohibited behaviors that may constitute sexual harassment include but are not limited to:

1. Generalized gender- and gender identity-based remarks and comments.
2. Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement.
3. Verbal or written sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, invitations, gestures or inappropriate comments about a person's clothing.
4. Visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals.
5. Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention.
6. Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluations or promotional opportunity.
7. Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

5.12 F. *Employee Responsibilities.*

Any employee who believes that they have been subjected to any form of prohibited discrimination/ harassment, including sexual harassment, or who witnesses others being subjected to such harassment or discrimination is encouraged to promptly report the incident(s) to their manager or directly to either the Personnel Officer or the Commission Secretary. All employees are expected to cooperate with investigations undertaken pursuant to this policy. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination.

5.12 G. *Supervisor Responsibilities.*

Managers should make every effort to maintain a work environment that is free from any form of discrimination/harassment. Managers are expected to take all allegations of discrimination/harassment, including sexual harassment, seriously, and to immediately refer the matter to the individual(s) responsible for receiving such complaints. All complaints will be reviewed and prompt and appropriate remedial action will be taken to address any substantiated claim. Managers receiving complaints of unlawful discrimination/harassment must immediately advise the Personnel Officer of the complaint.

5.12 H. *Complaints.*

All investigations of discrimination/harassment claims will be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations will be conducted in a prompt, thorough and impartial manner. The results of the investigation will be forwarded to the respective agency head to make a final decision as to whether a violation of the policy has been substantiated.

Where discrimination/harassment is found to have occurred, the Commission will take prompt and appropriate remedial action to stop the discrimination/harassment and deter its reoccurrence. The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment.

The Commission shall maintain a written record of the discrimination/harassment complaints received. Written records will be maintained as confidential records to the extent practicable and appropriate.

5.12 I. *Prohibition against Retaliation.*

Retaliation against any employee who alleges that they were the victim of discrimination/harassment or against any employee who provides information in the course of any investigation into claims of unlawful discrimination/harassment in the workplace is prohibited by this policy. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy will not be subjected to adverse employment consequences based upon such involvement or be the subject of retaliation.

5.12 J. *False Accusations and Information.*

If any employee knowingly makes a false accusation of unlawful discrimination/harassment or knowingly provides false information in the course of any investigation of a complaint, such conduct may be grounds for discipline. Complaints made in good faith, however, even if found to be unsubstantiated, will not be considered a false accusation.

5.12 K. *Confidentiality.*

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality will be maintained throughout the investigatory process. In the course of an investigation it may be necessary to discuss the claims with the alleged harasser and other persons who may have relevant knowledge. It therefore may be necessary to disclose information to persons with a legitimate need to know about the matter. All persons interviewed will be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action.

5.12 L. *Training.*

The Commission shall provide employees with training concerning this policy.

**5.13 Disciplinary Action.**

5.13 A. *Disciplinary Action.* Any employee found to have violated this policy may be subject to appropriate disciplinary action which may include: reprimand, suspension, reassignment, or termination of employment. Disciplinary action shall be taken in accordance with Section 5.12 of the Administrative Manual. Referral to another authority for review for possible violation of State and Federal statutes may also be appropriate.

1. Forms of Disciplinary Actions:
  - a. *Oral Reprimand.* The discussion a supervisor has with an employee relating to job performance or employee behavior.
  - b. *Written Reprimand.* A written record of a rebuke, usually after previous oral reprimand.
  - c. *Suspension with Pay.* Ordered absence from duty while on full pay status.
  - d. *Suspension without Pay.* Ordered absence from duty without pay.
  - e. *Demotion.* The movement of an employee from present grade to a lower grade.
  - f. *Dismissal.* Removal from employment with the Commission.

5.13 B. *Causes for Disciplinary Action.*

1. Unsatisfactory performance of duties and responsibilities of the job assigned.
2. Misconduct.
3. Insubordination.
4. Failure to comply with the policy prohibiting discrimination, harassment or hostile environments in the workplace.
5. Abuse of Sick Leave privileges.
6. Abandonment of employment.
7. Tardiness.
8. Failure to comply with the Policy Governing Electronic Resources Use, Access and Communications.
9. Failure to comply with the policies set forth in Chapter 9 relating to the employee's use of a Purchase Card (P-Card).

5.13 C. *Disciplinary Procedures.*

1. When a reprimand is warranted but stronger disciplinary action is not required, the supervisor shall follow either of the following procedures:
  - a. The supervisor delivers an oral reprimand to the employee. No written record is placed in the employee's personnel file.
  - b. The supervisor places a written reprimand in the employee's personnel file. The employee must be given a copy of the reprimand and has 15 working days to comment and reply to it in writing to the Personnel Officer. The employee's reply will be made part of the employee's personnel file.
2. When a supervisor feels that stronger disciplinary action is warranted, the following procedures will be followed:
  - a. The supervisor will prepare written charges and deliver a copy to the employee within five (5) working days of the incident that provoked the charge. Copies will

also be provided to the supervisor's immediate supervisor and the Personnel Officer (a copy goes into employee's record).

- b. The employee will have 15 working days to respond to the charges in writing. Copies will be given to the Personnel Officer, the employee's supervisor, and the next level supervisor (a copy is made part of the employee's record).
  - c. Within five (5) working days of receipt of the employee's response to the charges, the Personnel Officer will conduct a "meet and discuss" session with the employee and supervisor. If the Personnel Officer is able to resolve the problem the Executive Director will be so notified. The Personnel Officer's recommended solution to the problem is subject to approval by the Executive Director. Official action stops upon approval by the Executive Director. The solution is implemented and a copy goes into the employee's record.
  - d. If the problem is not resolved, the Personnel Officer will send a notice of impasse to the Executive Director. The Executive Director shall schedule a formal hearing within ten (10) working days of receiving the notice of impasse.
3. *Formal Hearing.*
    - a. All persons concerned with the case shall be heard.
    - b. The employee may have counsel (at employee's expense).
    - c. Each party concerned may have witnesses on their behalf.
  4. *Findings.*

The Executive Director shall issue a report of findings and shall determine the disciplinary action (if any) to be taken.

#### **5.14 Termination of Employment.**

- 5.14 A. *Resignation.* In order to resign in good standing, an employee shall give the Commission at least ten (10) working days' notice in writing.
- 5.14 B. *Removal for Cause.* Termination of employment for unsatisfactory performance, misconduct in office, insubordination, abuse of Sick Leave privileges, abandonment of employment or excessive tardiness.
- 5.14 C. *Reduction in Force.*
  1. The Executive Director may, in accordance with Section 3.2 of this Manual, institute changes in the internal staff organization of Commission as required to adapt to changes in the annual current expense budget. The Executive Director may, as necessary, create or abolish staff positions in order to most efficiently carry out programs authorized by the Commission.
  2. An employee whose position is abolished and who has bumping rights will, where possible, be reassigned by the Executive Director to another position within the revised table of organization, if the Executive Director shall determine that the employee is qualified by education and experience for the reassignment. If no reassignment is possible, the employee so affected will be so notified by the Executive Director.

3. An employee “bumped” by reason of another employee being reassigned and who has secondary bumping rights may also be reassigned by the Executive Director to another position based upon the Executive Director’s determination that the employee is qualified by education and experience for the reassignment. If no reassignment is possible, the employee so affected will be so notified by the Executive Director.
4. An employee occupying a position that is abolished or an employee who is bumped shall receive at least 20 working days’ advance notice of termination.
5. If an employee who has bumping rights is notified of termination, within ten (10) working days such employee must notify the Personnel Officer of any desire to exercise bumping rights and identify the position involved.
6. An employee does not have the right to bump or be reassigned to a position at a higher grade level.
7. Only employees hired before January 1, 2022 shall have primary or secondary bumping rights. Employees hired after that date shall not be entitled to bumping rights. As of January 1, 2032, any presently existing entitlement to primary bumping rights or secondary bumping rights upon a reduction in force under this Section 5.14.C shall cease, regardless of an employee’s date of hire, and paragraphs 2 – 6 of this Section 5.14.C shall be of no further force or effect.
8. The salary and grade level of an employee who is reassigned shall be the same as that currently budgeted for the new position, except that the reassignee’s new salary may not exceed the reassignee’s salary immediately prior to reassignment.

5.14 D. *Retirement.* Employee retirements are subject to the Rules and Regulations of the Public Employees’ Retirement System of the State of New Jersey.

5.14 E. The Personnel Officer will conduct exit interviews to all employees prior to termination.

**5.15 Re-employment Eligibility.** An employee terminated by reason of reduction in force shall be eligible for re-employment based upon availability of funds and the needs of the Commission as determined by the Executive Director. This right shall expire one (1) year after termination.

**5.16 Applicability.** The provisions of this Chapter shall not be applicable to members of the Commission, alternates and advisors, the Executive Director or General Counsel (Resolution No. 80-4).

## CHAPTER 6

### TRAVEL REGULATIONS

**Section 6.1 General.** These regulations are intended to cover most travel requirements which may arise in the normal operation of Commission activities. Should circumstances arise that are not covered by these regulations, the employee shall notify the Commission’s Director of Finance and Administration, who will provide the employee with written instructions for the proper handling of travel costs under the special circumstances motivating the request. All questions relating to the interpretation of these regulations will be submitted to the Director of Finance and Administration for determination. Should the employee disagree with the determination of the Director of Finance and Administration, the employee shall have the right to appeal to the Executive Director.

*Official Station.* The official station of all Commission employees shall be the Commission’s West Trenton, New Jersey headquarters building unless otherwise designated by the Executive Director. No travel costs between the employee’s residence and the official station shall be reimbursable except as provided in Section 6.7 of this Manual.

#### 6.2 Travel Authorization.

##### 6.2 A. *Advance Approval Required.*

1. *Within Basin.* All travel within the borders of Basin states and to Washington, D.C. shall be considered Within Basin Travel. Travel within the Basin to conduct Commission business requires advance verbal approval by the traveler’s supervisor.
2. *Outside Basin.* All other travel to conduct Commission business shall be considered Out-of-Basin Travel and shall require advance written authorization by the Executive Director.
3. *Conventions and Multi-day Conferences.* All convention and multi-day conference expenditures must be authorized in advance by the Executive Director.

6.2 B. *Emergencies.* Whenever travel has been undertaken without advance approval due to an emergency, the request for approval must be submitted immediately after the trip and prior to the submission of a request for reimbursement. In such cases, the request must contain a satisfactory statement of the facts constituting the emergency.

**6.3 Vehicles.** Official travel shall be in Commission-owned vehicles where possible. When it is in the best interest of the Commission, travel by other means may be authorized.

##### 6.3 A. *Use of Commission-owned Vehicles.*

1. *Eligible Drivers.* Commission-owned vehicles shall be operated only by authorized Commission officials and employees possessing a valid driver’s license.
2. *Fines.* Fines for traffic violations, including overtime parking, are not reimbursable and shall be paid by the operator of the vehicle responsible for the violation.
3. *Fuel, Supplies.* Insofar as possible, the purchase of all fuel and oil shall be handled through P-cards issued in accordance with Chapter 9 hereof or credit cards furnished for this purpose. Except in emergencies, all other vehicle supplies and parts should be procured through the Commission.

4. *Emergency Purchases.* When emergency purchases are necessary, the employee should obtain the best quality at the lowest possible price under the circumstances. In such instances, the employee's reimbursement request shall be accompanied by an explanation as to the necessity for the purchases.

Where possible, such expenses may be charged with a P-card or Commission-issued credit card.

5. *Parking, Tolls.* Where travel is by use of Commission-owned vehicles, reasonable parking fees and toll expenses will be allowed.
  6. *Non-business Hours.* Where a Commission-owned vehicle is to be used at times other than normal work-day hours, verbal approval shall be obtained from the Executive Director or the Executive Director's designee. Cars may be taken home by authorized employees who are starting a non-local trip the following morning or who are returning from such trip after the normal work day.
  7. *Vehicles Not in Use.* When staff cars are not in use, they will be kept in the parking lot of the Commission's West Trenton headquarters building.
  8. *No smoking.* Except as otherwise authorized by the Commission, smoking within vehicles owned by the Commission is prohibited.
- 6.3 B. *Employee-owned Vehicle.* When the use of a privately-owned vehicle has been approved in advance, the officer or employee may be reimbursed for actual transportation expenses (including fuel, insurance and wear-and-tear) based on mileage, as well as for reasonable parking expenses and tolls.

To be eligible for reimbursement for the use of a privately-owned vehicle for Commission business, an employee must, upon request, provide the Director of Finance and Administration with evidence that the employee has up-to-date liability insurance with minimum coverages of \$25/50,000 for personal injury liabilities and \$10,000 for property damage.

When an employee uses a personal vehicle for Commission business, the employee will be reimbursed for mileage at the rate established annually by the Internal Revenue Service.

- 6.3 C. *Air Travel.* Transportation by scheduled airlines may be authorized when cost or time considerations justify such travel. Class of travel will be "coach" or equivalent.
- 6.3 D. *Rail.* Transportation by rail may be authorized when cost or time considerations justify such travel.
- 6.3 E. *Taxicabs, Ride Services.* Taxicab or ride service charges will be permitted when justified.
- 6.3 F. *Travel Route.* All travel shall be by the most direct, economical, and usually-traveled route. Travel by other routes may be allowed when need is demonstrated in advance of such travel.

In case a person travels by an indirect route or uses a more expensive mode of travel for personal convenience, the extra expense will be borne by the individual, and reimbursement for expenses will be based only on such charges as would have been incurred by the most direct, economical and usually traveled route.

**6.4 Lodging.** Reimbursement for lodging expense shall be limited to the actual expenses incurred subject to maximum rates set by the Executive Director. The Executive Director may approve rates in excess of these maximums, if warranted.

**6.5 Meals.** Reimbursement or Commission payment for meal expenses shall be limited to the actual expenses incurred, including tips and gratuities, and shall be subject to maximum rates set by the Executive Director. The Executive Director may approve rates in excess of established maximums, if warranted.

**6.5 A. Meals Eligible for Commission Payment or Reimbursement**

1. *Limited Travel.* Travel that does not require an overnight stay shall be considered limited travel.

*Lunch.* When conducting official Commission business spanning the lunch hour. Routine lunches among Commission employees are not considered official Commission business.

*Dinner.* When the employee is required to end travel after 8:00 p.m.

2. *Extended Travel.* Travel that requires an overnight stay shall be considered extended travel. Meal reimbursement or Commission payment will be authorized for all meals normally falling within the travel period.

**6.5 B. Non-eligible Meal Expenses.** Alcoholic beverages are never eligible for reimbursement. “Break” drinks (coffees, sodas, iced teas, etc.) are ineligible for reimbursement except as part of eligible meals or as may be needed for field work hydration and safety.

**6.6 Other Travel Expenses.**

**6.6 A. Communication Expenses.** Reimbursement will be limited to the actual expenses incurred for the conduct of official Commission business.

**6.6 B. Miscellaneous Expenses.** Charges for necessary services for the conduct of Commission business will be eligible for reimbursement.

**6.6 C. Travel Incident to Recall or Return from Leave Status.** When an employee who is absent from the official station on leave of absence is ordered by the Executive Director to return to work, the employee is entitled to be reimbursed for all costs caused by the recall.

**6.7 Overtime Expenses.** Commission employees who are required to work overtime shall be entitled to the following:

**6.7 A. Regular Work Day.** When an employee works overtime on a regular work day and the overtime work causes the employee to arrive home after 8:00 p.m., the employee shall be entitled to reimbursement for dinner expenses as indicated in Section 6.5 of this chapter.

**6.7 B. Other than Regular Work Day.** When an employee works overtime on other than a regular work day, the employee shall be entitled to be reimbursed for travel expenses to and from work as indicated in Section 6.3 of this chapter. The employee shall be entitled to meal allowances as indicated in Section 6.5 of this chapter under the following circumstances:

*Lunch.* If the overtime extends beyond the noon hour.

*Dinner.* If the overtime causes the employee to arrive home after 8:00 p.m.



**6.8 Expense Report.** All claims for Commission payment or reimbursement of expenses shall be submitted on a properly completed expense report. Appropriate supporting data and receipts will be required for all individual items. Where receipts are not available, a full explanation of the nature of the expenditure should be included with the expense report. Expense reports shall be submitted on a monthly basis. Expense reports shall be approved by each employee's direct supervisor or upper level supervisor.

## **CHAPTER 7**

### **GENERAL PROVISIONS**

**Section 7.1 Prescribed Time Period.** Whenever an act or procedure is required by the Manual to be taken or followed within a prescribed time, such time shall be deemed to be directory and not mandatory until the Commission shall otherwise prescribe.

**7.2 Role of General Counsel.** The General Counsel to the Commission, upon request, shall advise and/or consult with the Executive Director on any matter covered by these regulations.

**7.3 Suspension of Rules.** Any or all of the personnel provisions may be suspended in whole or in part for just cause. Suspension of rules shall be applicable only upon action of the Executive Director with the approval of the Commission Chair.

**7.4 Effective Date.** This Manual shall take effect immediately upon its adoption.

## CHAPTER 8

### ELECTRONIC RESOURCES USE, ACCESS AND COMMUNICATIONS

**Section 8.1 General.** The rules outlined in this chapter apply to all Commission-issued electronic devices and systems, including personal computers, laptops, handheld devices, smartphones, telephones, and voicemail and facsimile machines or services. These provisions also apply to employee use of the Internet and email for Commission business using Commission-owned and non-Commission owned resources and services. In addition, Commission employees are required to adhere to the standards established by the State of New Jersey with respect to electronic mail messaging systems and Internet access. Those standards, including any amendments to them that the State of New Jersey may approve, are incorporated by reference in these regulations. The Commission's Systems Manager will provide staff with links to these and other applicable state policies and inform Commission employees of any modifications made to them as the occasion arises.

**8.2 Permitted Use.** Commission-issued electronic resources are the property of the Commission and are to be used for legitimate business purposes. Employees are provided with access to these resources to assist them in the performance of their jobs. All employees have a responsibility to use these electronic resources and the Internet in a professional, lawful, and ethical manner.

Brief and occasional personal use of the electronic mail system or the Internet is acceptable as long as it is not excessive or inappropriate, occurs during personal time (lunch or other breaks), and does not result in expense or harm to the Commission or otherwise violate this policy. Use is defined as "excessive" if it interferes with: normal job functions; time dedicated to work activities; responsiveness; or the ability to perform daily job activities.

**8.3 Prohibited Uses.** Electronic communication should not be used to: solicit or sell products or services that are unrelated to the Commission's business; distract, intimidate, or harass coworkers or third parties; or disrupt the workplace.

Use of Commission computers, networks, and Internet access is a privilege granted by management and may be revoked at any time for inappropriate conduct carried out on such systems, including, but not limited to:

- Sending chain letters or participating in any way in the creation or transmission of unsolicited commercial e-mail ("SPAM") that is unrelated to legitimate Commission purposes;
- Engaging in private or personal business activities, including excessive use of instant messaging and chat rooms; during working hours.
- Accessing networks, servers, drives, folders or files to which the employee has not been granted access by someone with the authority to allow it;
- Making unauthorized copies of Commission files or other Commission data that are not public records;
- Destroying, deleting, erasing, or concealing Commission files or other Commission data, or otherwise making such files or data unavailable or inaccessible to the Commission or to other authorized users of Commission systems;
- Misrepresenting oneself or the Commission;

- Violating the laws and regulations of the United States or any other nation or any state, city, province, or other local jurisdiction in any way;
- Engaging in unlawful or malicious activities;
- Deliberately propagating any virus, worm, Trojan horse, trap-door program code, or other code or file designed to disrupt, disable, impair, or otherwise harm either the Commission's networks or systems or those of any other individual or entity;
- Using abusive, profane, threatening, racist, sexist, or otherwise objectionable language in either public or private messages;
- Sending, receiving, or accessing pornographic materials;
- Operating “office pools” or gambling events;
- Causing congestion, disruption, disablement, alteration, or impairment of Commission networks or systems;
- Maintaining, organizing, or participating in non-work-related Web logs ("blogs") or Web journals;
- Failing to log off any secure, controlled-access computer or other form of electronic data system to which you are assigned, if you leave such computer or system unattended overnight, on weekends or during periods of leave;
- Defeating or attempting to defeat security restrictions on Commission systems and applications.

Using Commission electronic systems to access, create, view, transmit, or receive racist, sexist, threatening, or otherwise objectionable or illegal material, defined as any visual, textual, or auditory entity, file, or data, are strictly prohibited. Such material violates the Commission’s policies and subjects the responsible employee to disciplinary action up to and including dismissal. The Commission will comply with reasonable requests from law enforcement and regulatory agencies for logs, diaries, archives, or files on individual Internet activities, e-mail use, and/or computer use.

Unless specifically granted in this policy, any non-business use of the Commission's electronic systems is expressly forbidden.

Employees are discouraged from using personal email accounts for the conduct of Commission business and/or activities.

8.3 A. *Illegal Copying.* Employees may not illegally copy material protected under copyright law or make that material available to others for copying. Employees are responsible for complying with copyright law and applicable licenses that may apply to software, files, graphics, documents, messages, and other material they wish to download or copy. Employees may not agree to a license or download any material for which a registration fee is charged without first obtaining the permission of a branch manager or the executive director.

8.3 B. *Communication of Proprietary Information.* Unless expressly authorized to do so, employees are prohibited from sending, transmitting, or otherwise distributing proprietary

information, data, trade secrets, or other confidential information belonging to the Commission or others.

- 8.3 C. *Accessing the Commission Network/Internet.* Employees, while at the Commission office, shall use only Commission approved devices to access the Commission network. Employees may access the internet either through approved devices or approved “guest” access.

To prevent computer viruses from being transmitted through the Network there will be no downloading of any software applications or files that are not directly related to Commission business.

- 8.3 D. *Virus Detection.* Employees shall not download program files from the Internet or use external devices such as jump drives or external hard drives from non-Commission sources, without first scanning the material with Commission-approved virus checking software and/or checking with the System Manager. If employees suspect that a virus has been introduced into the Commission network, they shall immediately notify the Systems Manager.

**8.4 Ownership.** Any and all information created, transmitted or stored using any Commission owned or operated equipment, system or service becomes the property of the Commission. As such, no individual has any rights of ownership in such information. The sole exception to this principle is software or other intellectual property that is licensed from third parties for the purpose of facilitating the conduct of Commission business.

**8.5 Control.** In certain circumstances, authorized Commission personnel may be required to take direct possession of computers and other related equipment as part of an investigation. Users of Commission electronic communication services and equipment implicitly consent to relinquish possession of such equipment upon any properly authorized and authenticated request.

**8.6 Privacy Limitations.** Employees should have no expectation of privacy in anything they create, store, send, or receive using the Commission’s electronic resources. The Commission reserves the right to access or monitor the use of any and all equipment, communication or content on Commission equipment, including content or messages sent via email accounts. Management and other authorized staff have the right to access any such content or messages at any time. Email and other electronic content is not private if it is created, transmitted, or stored using the Commission’s electronic resources.

The Commission reserves and intends to exercise the right to review, audit, intercept, access, and disclose all messages created, received, or sent utilizing the Commission’s electronic resources for any purpose. The contents of electronic communications may be disclosed within the Commission or, as appropriate, outside the Commission, without the permission of the employee. Even when a message is erased or deleted, it is still possible to retrieve and read that message. Furthermore, the use of passwords for security does not guarantee confidentiality.

The Commission reserves the right to monitor and log any and all aspects of its computer network, including all employee use thereof. The Commission has the right to utilize software that makes it possible to identify and block access to Internet sites containing sexually explicit or other material deemed inappropriate in the workplace.

Certain Commission-owned electronic resources are equipped with electronic tracking software that can be accessed by authorized Commission staff to determine the location of or de-activate that equipment as outlined below. In addition, Commission-owned electronic resources may be equipped with an application that has the ability to monitor and record activity on such devices at any time. The Commission also has the ability to perform behind-the-scenes management of electronic devices.

Authorized Commission staff will utilize these capabilities in limited circumstances, which may include but are not limited to the following:

- The device is reported as lost or stolen to the Systems Manager.
- There is a legitimate concern for an employee’s safety or well-being as a result of authorized Commission staff’s inability to contact them or an unexplained absence on a scheduled work day.
- There is reason to believe the equipment is being used improperly as outlined in the policies contained in this chapter.

**8.7 Voicemail.** Employees shall use the Commission's voicemail system in a responsible manner to facilitate communication with other employees and the general public.

**8.8 Use of Cell Phones for Commission Business.** For activities in Commission vehicles or related to Commission business, the Commission:

- Discourages the use of all electronic devices while driving
- Prohibits texting and/or dialing while driving
- Requires that a hands-free device be utilized while taking or making business-related calls while driving.

Whether employees are issued a Commission-owned smartphone or are using a personal cell phone/smartphone for Commission business they must:

- Observe all applicable traffic laws, ordinances, etc.
- Use a hands-free device whenever taking/making Commission business-related calls while driving
- Not read or transmit text messages or emails while driving.

While working at the office or attending a meeting or event on Commission business, employees are required to:

- Limit the amount of time spent on personal calls, text messages, and/or emails and the number of such communications during working hours
- At no time at work or in the workplace, use the device to send messages, photos, videos, etc. that is inappropriate, distasteful, or obscene, such that disciplinary actions would be warranted under Section 5.12 and 5.13 of this manual.

**8.9 Social Media and Internet Postings.** These rules apply to employees who participate in or use multimedia and social networking sites, blogs, wikis, or any other Internet site where text, photos, videos, audio files, or other content can be posted using any and all computers or devices.

Employees must ensure that their personal use of social media does not create the appearance that they are acting in an official capacity or that the Commission endorses or sanctions their personal activities. When posting their point of view, employees must neither claim nor imply that they are speaking on the Commission's behalf. If there is any potential for confusion, an appropriate disclaimer must be provided.

When speaking about the Commission on any website, multimedia site, social networking site (e.g., Facebook or Twitter), blog, or other site where text, photos, videos, audio, or other content may be posted, employees shall clearly identify themselves as employees of the Commission and include a disclaimer that the views expressed are the employee's own views and not those of the Commission.

Without clear prior authorization, use of the Commission logo, Commission seal, or any copyrighted Commission material, is prohibited. Posting of any Commission non-public, confidential, or proprietary information is similarly prohibited without clear Commission authorization.

Employees are legally responsible for the content of their postings and may be personally liable if they post confidential or copyrighted information belonging to third parties. Postings must respect copyright, privacy, fair use, financial disclosure, and other applicable laws.

Even with a disclaimer, inappropriate messages may violate Commission policy. In particular, postings must be consistent with Section 5.12, prohibiting discrimination, harassment or hostile environments in the workplace. Any posting regarding the Commission, Commission members and alternates, advisors, employees, project sponsors, consultants, member jurisdictions, or members of the public is expected to be respectful and appropriate. Employees shall not discriminate in postings against or harass other employees, project sponsors, consultants, or others for any reason, including by virtue of an individual's race, color, sex, sexual orientation, religion, national origin, age, veteran status, political affiliation, disability, or any other trait or characteristic protected by law.

## CHAPTER 9

### PURCHASING CARD

**Section 9.1 General.** The rules outlined in this chapter provide for the use of Commission-issued purchase cards (“P-cards”) for most purchases made in the course of normal Commission operations. Should needs arise for which the procedures described in this chapter are unsuited or inadequate, the employee shall notify the Commission’s Director of Finance and Administration, who will provide written purchasing instructions tailored to the circumstances.

**9.2 Permitted Uses.** Permitted uses include all Commission-related expenses consistent with approved budgets, individual purchase limits and other Commission policies. Examples of permitted uses are listed below; however, this list is not exhaustive.

<i>Allowable Use</i>	<i>Examples</i>
<i>Routine office expenses, including services</i>	<i>Office supplies Pest control Trash / waste removal Janitorial services Advertising</i>
<i>Other services</i>	<i>Licenses / permits Facility maintenance (snow removal, grass cutting) Subscriptions Membership fees Training and seminars Laboratory services</i>
<i>Travel expenses</i>	<i>Airfare Ground transportation (incl. rental car) Lodging Meals Fuel</i>

**9.3 Prohibited Uses.** P-cards should not be used for personal or non-Commission expenses. If the P-Card is used inadvertently for personal expenses, the Director of Finance and Administration should be notified promptly upon discovery of the use, and prompt reimbursement made in accordance with section 9.5D.3. If the P-card is used purposefully or repeatedly for personal expenses, the employee will be subject to disciplinary action, up to and including termination. Examples of prohibited uses are listed below. The list is not exhaustive. If an employee is uncertain of whether a particular use of the P-card is appropriate, the employee is directed to ask the employee’s supervisor or the Director of Finance and Administration for guidance.



<i>Prohibited Use</i>	<i>Examples</i>
<i>Personal expenses</i>	<i>Travel expenses for family members In-room movies Salon services Souvenirs Airline or hotel clubs Daily commute expenses Tobacco Alcoholic beverages Tickets for traffic violations Other fines/penalties.</i>
<i>The following services are not to be procured using the P-card:</i>	<i>Cash Advances Any form of personal identification Donations</i>

**9.4 P-Card Issuance.**

9.4 A. *P-card Administrator.* The Executive Director shall designate as the P-card Administrator the Commission’s Director of Finance and Administration or other financial manager.

9.4 B. *Employee Request.* The procedure for P-card issuance shall be as follows:

1. Any employee may request a P-card by submitting a request to the P-card Administrator in such form as the P-card Administrator may prescribe, and to the employee’s supervisor. The approval of both the employee’s supervisor and the P-card Administrator shall be required prior to issuance of the P-card.
2. The P-card Administrator or the P-card Administrator’s designee will create the cardholder profile and establish the P-card limit with the issuing bank.
3. The employee shall agree to the terms of issuance by signing an “agreement to accept” letter or equivalent.
4. Upon furnishing a copy of the signed “agreement to accept” letter (or equivalent) to the P-card Administrator for DRBC files, the employee may be issued the P-card.

9.4 C. *Review.* The P-card Administrator shall review each request form for completeness and accuracy. If any fields are not complete, the P-Card Administrator shall return the form to the requester’s supervisor for completion and re-submission to the P-card- Administrator.

9.4 D. *P-card Replacement.* P-cardholders are to report lost or stolen cards to the issuing bank and the P-card Administrator promptly when the loss is discovered. The missing card will be cancelled and a replacement card issued.

9.4 E. *Spending Limits.* Spending limits shall be set by the Director of Finance and Administration for each P-card, based upon the cardholder’s employee grade and position, including any unique purchasing needs associated with the employee’s responsibilities. A P-cardholder may request a temporary (up to 30 days) adjustment to the cardholder’s spending limits to accommodate short-term travel needs. Any short-term excess spending needs that do not involve travel should be coordinated with the Director of Finance and Administration.

## 9.5 Submission and Approval of Charges to the P-Card.

- 9.5 A. *Documentation.* The P-cardholder shall obtain a receipt for all charges placed on the P-card. Receipts shall be submitted to the cardholder’s supervisor for review and approval in such form – including the use of particular software – as the Director of Finance and Administration may prescribe.
- 9.5 B. *Review.* The P-cardholder’s supervisor shall review all P-card charges for sufficiency of documentation as to: (1) what was procured; (2) who was involved; (3) where the transaction took place; (4) why the transaction was necessary; and (5) whether the account ledger code is correct. Upon approval by the supervisor, an expense report shall be furnished to Accounts Payable. If a supervisor is not available to review and approve an expense report, the Director of Finance and Administration may delegate this authority to other senior management personnel.
- 9.5 C. *DRBC Compact Requirements.* The P-card system shall in no way affect adherence to Section 14.9 (“Purchasing”) of the Compact, which shall remain controlling for all purchases covered by that section.
- 9.5 D. *Missing or lost transaction receipt; personal charge.*
1. When a receipt is missing or lost, the P-cardholder shall provide the Director of Finance and Administration with a completed “Lost Receipt Form.” If the value of the charges reflected on the missing or lost transaction receipt exceeds \$10.00, the P-cardholder’s supervisor must approve and sign the Lost Receipt Form in advance of providing the Lost Receipt Form to the Director of Finance and Administration.
  2. If a missing or lost receipt is later found, the cardholder shall promptly submit it to Accounts Payable.
  3. The P-card is not to be used for personal expenses. If personal charges are incurred on the P-card, the cardholder shall submit a check payable to “DRBC” promptly for the sum of the personal charges.

## 9.6 Unprocessed Expense Aging.

- 9.6 A. *Account Reconciliation.* The Commission finance group will perform monthly reconciliations to identify open charges not yet processed (i.e., charges for which documentation has not been submitted). Each P-cardholder will receive an email notification regarding the P-cardholder’s unprocessed expenses aged 30 days or more.
- 9.6 B. *Consequences of Unreconciled Expenses.*
1. When charges go unprocessed for 45 days, the P-cardholder’s account may be deactivated.
  2. When a P-cardholder’s expenses go unprocessed for 60 days, P-card privileges may be revoked and the P-card deactivated.
  3. A suspended P-card account may be reactivated upon submission to the P-card Administrator of a satisfactory written explanation for the delay in processing transactions.

- 9.7 Waivers.** Any deviation, waiver or exception from the procedures set forth in this Chapter 9 shall require the prior written approval of the Executive Director. The P-card Administrator shall be responsible for maintaining a record of each waiver request and the corresponding determination. Any cardholder who receives a waiver also is responsible for retaining documentation of the waiver approval.
- 9.8. Non-compliance.** An employee who violates or circumvents the practices set forth in this Chapter 9 may be subject to disciplinary action, including termination.

**ATTACHMENT B**

Mark-up of  
*Administrative Manual—Bylaws, Management and Personnel*

# Administrative Manual BY-LAWS, MANAGEMENT AND PERSONNEL

Adopted and Effective December 13, 1961  
Revised through January 1, ~~2021~~2022



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~~DELAWARE RIVER BASIN COMMISSION~~  
~~P.O. Box 7360~~  
~~West Trenton, New Jersey 08628-0360~~  
~~(609) 883-9500~~  
~~www.drbc.gov~~



**Delaware River Basin Commission**

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25 Cosey Road  
P.O. Box 7360  
West Trenton, NJ 08628-0360  
(609) 883-9500  
[www.drbc.gov](http://www.drbc.gov)

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**Administrative Manual**  
**BY-LAWS, MANAGEMENT AND PERSONNEL**  
**Adopted and Effective December 13, 1961**  
**Revised through ~~December 12, 2018~~ January 1, 2022**

*Table of Contents*

<i>Chapter / Section</i>	<i>Page</i>
<b>CHAPTER 1 DEFINITION AND SCOPE .....</b>	<b>1</b>
Section 1.1 Administrative Manual .....	1
1.2 Short.....	1
1.3 Definitions – General .....	1
1.4 Official Seal .....	1
1.5 Principal Office and Meetings .....	2
<b>CHAPTER 2 THE COMMISSION.....</b>	<b>3</b>
Section 2.1 Organization of the Commission .....	3
2.2 Presiding Officer .....	3
2.3 Meetings.....	3
2.4 Conferences.....	3
2.5 Agenda .....	3
2.6 Quorum .....	4
2.7 Voting by the Commission .....	4
2.8 Minutes.....	4
2.9 Rules of Proceedings of Meetings.....	4
2.10 Committees .....	4
2.11 Resolutions.....	4
2.12 Advisory Committees .....	4
<b>CHAPTER 3 ORGANIZATION AND STAFF .....</b>	<b>5</b>
Section 3.1 Officers.....	5
3.2 Executive Director .....	5
3.3 Deputy Executive Director.....	5
3.4 General Counsel.....	5
3.5 Secretary.....	6
3.6 Oath of Office.....	6
3.7 <del>Official Surety Bonds</del> Reserved.....	7
3.8 Vacancies in Principal Offices.....	7



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**CHAPTER 4 BUDGETS AND FINANCIAL PROCEDURES ..... 8**

Section 4.1 Fiscal Year ..... 8

4.2 Annual Budgets ..... 8

4.3 Budget Operation ..... 8

4.4 Purchasing ..... 8

4.5 Bills and Claims ..... 9

4.6 Payrolls ..... 9

4.7 Disposal of Property ..... 9

4.8 Official Depositories and Check Signatures ..... 9

4.9 Independent Audit ..... 9

**CHAPTER 5 PERSONNEL POLICIES ..... 10**

Section 5.1 Definitions ..... 10

5.2 Types of Commission Employees ..... 12

5.3 Personnel Organization ..... 13

5.4 Personnel Practice ..... 14

5.5 Working Conditions ..... 16

5.6 Compensation Plans ..... 17

5.7 Fringe Benefits for Employees ..... 19

5.8 Employee Performance Rating Form

32

5.9 Employee Training ..... 33

5.10 Other Activities ..... 34

5.11 Grievance Procedure

34

5.12 Policy Prohibiting Discrimination, Harassment or Hostile Environments  
in the Workplace ..... 36

5.13 Disciplinary Action ..... 40

5.14 Termination of Employment ..... 42

5.15 Re-employment Eligibility ..... 43

5.16 Applicability ..... 43

**CHAPTER 6 TRAVEL REGULATIONS ..... 44**

Section 6.1 General ..... 44

6.2 Travel Authorization ..... 44

6.3 Vehicles ..... 44

6.4 Lodging ..... 46

6.5 Meals ..... 46

6.6 Other Travel Expenses ..... 46

6.7 Overtime Expenses ..... 46

6.8 Expense Report ..... 47

**CHAPTER 7 GENERAL PROVISIONS ..... 48**

Section 7.1 Prescribed Time Periods ..... 48

7.2 Role of General Counsel ..... 48

7.3 Suspension of Rules ..... 48

7.4 Effective Date ..... 48

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<b>CHAPTER 8</b>	<b>ELECTRONIC RESOURCES USE, ACCESS AND COMMUNICATIONS</b>	<b>49</b>
Section	8.1 General	49
	8.2 Permitted Use	49
	8.3 Prohibited Use	49
	8.4 Ownership	51
	8.5 Control	51
	8.6 Privacy Limitations	51
	8.7 Voicemail	52
	8.8 Use of Cell Phones for Commission Business	52
	8.9 Social Media and Internet Postings	52
<b>CHAPTER 9</b>	<b>PURCHASING CARD</b>	<b>54</b>
Section	9.1 General	54
	9.2 Permitted Uses	54
	9.3 Prohibited Uses	54
	9.4 P-Card Issuance	55
	9.5 Submission and Approval of Charges to the P-Card	56
	9.6 Unprocessed Expense Aging	56
	9.7 Waivers	57
	9.8 Non-compliance	57

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## CHAPTER 1

### DEFINITION AND SCOPE

**Section 1.1 Administrative Manual.** The organization, management and personnel practices of the Commission shall be governed by the Administrative Manual.

**1.2 Short Title.** This document shall be known and may be cited as the Administrative Manual and is hereinafter referred to as ~~the~~ “Manual”.

**1.3 Definitions – General.** For the purposes of the Administrative Manual, except as may be otherwise required by the context:

1.3 A. *Compact* shall mean the concurrent legislation enacted by the States of Delaware, New Jersey and New York, the Commonwealth of Pennsylvania, and the United States of America, including all conditions and reservations duly enacted by the Congress of the United States.

1.3 B. *Commission* shall mean the ~~governing body of the Delaware River Basin~~ Commission created and constituted by the Compact;

~~1.3 C.~~ 1.3 C. *Commissioners* shall mean the members of the Commission as set forth in Section 2.2 of the Compact.

1.3 D. *Executive Director* shall mean the officer by that title duly appointed pursuant to the Compact or any assistant or acting Executive Director authorized to serve in place of the Executive Director pursuant to the Manual;

1.3 ~~DE.~~ *Person* shall mean any corporation, firm, partnership, association, organization or other entity, as well as an individual;

1.3 ~~EF.~~ *Month* shall mean a calendar month unless otherwise specifically provided;

1.3 ~~FG.~~ *Year* shall mean a calendar year unless otherwise specifically provided; and

1.3 ~~GH.~~ *Words and phrases defined in Section 1.2 of the Compact shall have the same meaning for the purposes of the Manual.*

**1.4 Official Seal.** The official seal of the Commission shall be in the form and style as follows:





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**1.5 Principal Office and Meetings.** The principal office of the Commission shall be located at 25 Cosey Road, West Trenton, New Jersey. All written communications to the Commission shall be addressed to P.O. Box 7360, West Trenton, New Jersey, 08628-0360 except as may be otherwise specifically required by any rule or regulation. Meetings of the Commission shall be held at such places and times as the Commission shall determine.

Smoking within the Commission’s principal office and vehicles is prohibited. Smoking at the Commission’s

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## CHAPTER 2 THE COMMISSION

**Section 2.1 Organization of the Commission.** The Commission shall organize annually. At its organization meeting each year, the Commission will elect a ~~chairman~~chair and vice ~~chairman~~chair from among its members. In the absence of both the ~~chairman~~chair and vice ~~chairman~~chair, the alternates appointed by the ~~chairman~~chair and the vice ~~chairman~~chair shall serve as ~~chairman~~chair and vice ~~chairman~~chair *pro tem* at any meeting.

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### 2.2 Presiding Officer.

2.2 A. The ~~chairman~~chair of the Commission shall:

1. preside at all meetings of the Commission and of the committee of the whole;
2. appoint special committees of the Commission as may be required;
3. rule on all questions of order subject to appeal to the Commission;
4. sign all resolutions of the Commission adopted in ~~his~~the chair's presence; and
5. have such other functions, powers and duties as the Commission may from time to time prescribe.

2.2 B. In the absence of the ~~chairman~~chair, the vice ~~chairman~~chair, and in the absence of the vice ~~chairman~~chair, the ~~chairman~~chair *pro tem* at any meeting, shall have, exercise and discharge the functions, powers and duties of the ~~chairman~~chair.

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### 2.3 Meetings.

2.3 A. *Regular meetings.* Regular meetings of the Commission shall be held ~~on the fourth Wednesday of each month, or at least quarterly~~ on such ~~other~~ dates as the Commission shall determine.

2.3 B. *Special meetings.* The Secretary, with approval of the ~~chairman~~chair and the Executive Director, may call a special meeting of the Commission.

2.3 C. *Adjourned meetings.* An adjourned meeting shall be considered a continuation of the preceding meeting, and the business of the Commission shall be resumed where it was left at the last adjournment.

**2.4 Conferences.** In addition to meetings, the Commission may confer informally for the planning of its work, consultation and staff purposes at such times and places as the Commission may determine. Such conferences shall not be deemed to be meetings within the meaning of Section 14.4 of the Compact, and no action requiring the formal approval of the Commissioners shall be taken at a conference.

**2.5 Agenda.** An agenda for each meeting of the Commission shall be prepared by the Secretary with the approval of the Executive Director. Copies of the agenda for each meeting shall be distributed to the Commissioners prior to the meeting. The Commissioners ~~by majority vote~~ may ~~either add~~

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~~or delete any item from the agenda or add an item to the agenda~~ through consultation and consensus with one another or by majority vote.

**2.6 Quorum.** Three members, or their respective alternates, as the case may be, shall constitute a quorum of the Commission.

**2.7 Voting by the Commission.** The vote upon every motion, resolution or action of the Commission shall be taken at a meeting and shall be entered upon the minutes.

**2.8 Minutes.** The Secretary shall so far as practicable prepare and distribute to the Commission members the minutes of each meeting promptly after the meeting. The minutes of any meeting may be approved without reading. The minutes of each meeting and any corrections thereof duly adopted shall be signed by the Secretary.

**2.9 Rules of Proceedings of Meetings.**

The presiding officer at any meeting may move, second and debate from the chair and shall not be deprived of any right to vote or of any other right, power or duty of a Commissioner by virtue of occupying the chair.

2.9 A. The Commissioner who has made a motion shall be entitled to the privilege of closing debate.

2.9 B. A motion to reconsider may be made by a Commissioner on the prevailing side.

2.9 C. The General Counsel shall act as Parliamentarian to the Commission and will advise the Commission as to any questions concerning proceedings before the Commission. The Commission shall determine by majority rule any question of procedure.

**2.10 Committees.** There shall be no standing committees of the Commission other than the committee of the whole. The rules of the Commission shall govern meetings of the committee of the whole so far as applicable. Special committees may be appointed by the chair pursuant to motion or resolution.

**2.11 Resolutions.** The Commission shall act on matters of general or permanent significance by resolution. Draft resolutions shall be prepared at the request of any member of the Commission or of the Executive Director. At least one copy of each draft resolution in writing shall be provided for each member of the Commission prior to consideration at any meeting. Matters of a temporary or solely internal significance may be acted upon by motion, without formal resolution.

**2.12 Advisory Committees.** The Commission may from time to time provide for the creation, appointment and functions of advisory committees in accordance with the Compact.



## CHAPTER 3

### ORGANIZATION AND STAFF

**Section 3.1 Officers.** The Commission will appoint an Executive Director, and all other officers and employees will be appointed by the Executive Director pursuant to the Compact. The Executive Director's appointments of General Counsel and Secretary to the Commission shall be subject to confirmation by the Commission.

**3.2 Executive Director.** The Commission will appoint an Executive Director qualified by training and experience for the duties of the office. The Executive Director is the chief executive and administrative officer of the Commission and shall:

- 3.2 A. prescribe the internal organization of the Commission's staff in such a manner as to group functions, powers and duties according to major purpose so far as practicable;
- 3.2 B. assign functions, powers and duties to subordinate officers and employees and modify such assignments as need appears;
- 3.2 C. delegate to other members of staff such powers as are deemed necessary for efficient administration;
- 3.2 D. supervise the administration of, and prescribe and enforce rules and procedures for, the efficient management of the Commission's business;
- 3.2 E. appoint and remove officers and employees of the Commission, subject to the rules prescribed by this Manual;
- 3.2 F. negotiate contracts, leases and intergovernmental arrangements for and on behalf of the Commission and, upon authorization of the Commission, execute any such document in its name;
- 3.2 G. effectuate and enforce all policies and resolutions adopted by the Commission; and represent the Commission before federal, state, local or other public or private bodies with regard to matters affecting the Commission; and
- 3.2 H. provide for the appointment of qualified persons to serve as Acting Executive Director during short-term periods when the Executive Director is absent from the office on leave, on Commission business, or because of illness or temporary disability.

**3.3 Deputy Executive Director.** ~~Appointed~~ A Deputy Executive Director may be appointed by the Executive Director to serve as the Executive Director during ~~his or her~~ the Executive Director's absence, ~~and furthermore, that the~~ The Deputy Executive Director shall in addition have such responsibilities as shall be assigned by the Executive Director, or as provided by the Commission.

**3.4 General Counsel.** Subject to the requirements of Section 3.1 hereof the Executive Director will appoint a qualified attorney and counselor at law duly admitted to practice in the highest courts of one or more of the signatory states and in the federal courts for at least five years, as General Counsel. The General Counsel shall be the principal legal advisor and representative of the Commission and shall:

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- 3.4 A. render such legal advice as may be required in the work of the Commission and its staff;
- 3.4 B. prepare and render formal opinions upon request of the Commission or the Executive Director;
- 3.4 C. formulate procedures for the Commission as may be required to comply with the Compact or may otherwise be required by law;
- 3.4 D. draft legislation, regulations, orders and resolutions as need appears;
- 3.4 E. review and approve for form and legality all contracts, leases, commitments, obligations and legal documents of any kind to which the Commission may be a party;
- 3.4 F. establish and supervise practice and procedure for the conduct of administrative hearings by the Commission pursuant to law; and
- 3.4 G. be responsible for the conduct and direction of litigation and other judicial proceedings in which the Commission may be a party.

**3.5 Secretary.** Subject to the requirements of Section 3.1 hereof the Executive Director will appoint a person qualified by training and experience to serve as Secretary to the Commission.

3.5 A. The Secretary shall:

- 1. attend all meetings of the Commission and record and maintain minutes of its proceedings;
- 2. maintain records of the Commission's transactions, communications and proceedings;
- 3. have custody of the seal of the Commission and affix it to such documents as may be authorized by law or regulation;
- 4. preserve and compile all resolutions adopted by the Commission; and
- 5. prepare and distribute notices of Commission meetings and hearings, and provide for the proper filing of its rules and regulations.

3.5 B. In the absence of the Secretary, the Executive Director shall designate a person qualified by training and experience to serve as Acting Secretary to the Commission.

**3.6 Oath of Office.** The Executive Director and each officer appointed by the Executive Director shall, not later than 15 days following appointment, take and subscribe an oath of office, to be filed with the Secretary in the following form:

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**DELAWARE RIVER BASIN COMMISSION**

*Oath of Office*

State of \_\_\_\_\_

County of \_\_\_\_\_

I, \_\_\_\_\_, do solemnly swear that I will, support and defend the Constitution of the United States, the Constitutions of the signatory states to the Delaware River Basin Compact, and the provisions of the Delaware River Basin Compact; and that I will well and faithfully discharge the duties of the office on which I am about to enter.

Name \_\_\_\_\_

Address \_\_\_\_\_

Sworn to and subscribed before me  
this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

**3.7** **[Reserved.]**

**3.7** **[Reserved.]**

**3.8 Vacancies in Principal Offices.** Vacancies among any of the principal offices of the Commission shall be filled in accordance with Section 3.1 thereof. Qualified persons may be appointed to act temporarily until the vacancy shall be filled by permanent appointment.

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## CHAPTER 4

### BUDGETS AND FINANCIAL PROCEDURES

**Section 4.1 Fiscal Year.** The fiscal year of the Commission shall begin on July 1 and end on June 30 annually.

#### 4.2 Annual Budgets.

4.2 A. *Capital budget.* On or before ~~the fourth Wednesday in September~~December 31 of each year the Executive Director shall have prepared and shall submit to the Commission a proposed capital budget for the next ensuing fiscal year. There shall be appended to such budget with respect to each project, proposed or existing:

1. a statement of the determination of cost allocations among the signatory parties or revenues anticipated as proposed by the staff;
2. a status report as to the conclusion of arrangements for financing according to the proposed cost allocations; and
3. copies of all agreements, commitments and actions taken by the signatory parties or any of them with respect to the proposed cost allocations.

The Commission will review and adopt a capital budget for the ensuing fiscal year, contingent upon receipt of revenues, appropriations, and/or grant funds, as identified.

4.2 B. *Current expense budget.* On or before ~~the fourth Wednesday in September~~December 31 of each year the Executive Director shall cause to be prepared and shall present to the Commission a proposed current expense budget for the next ensuing fiscal year. Such budget shall conform to the requirements of Section 13.3(b) of the Compact.

#### 4.3 Budget Operation.

4.3 A. The Executive Director shall install and maintain an encumbrance system of budget operation. No expenditure or commitment shall be authorized or incurred at any time in excess of the unencumbered balance of appropriations available therefore.

4.3 B. The Executive Director may transfer appropriations from one major purpose account to another but any such transfer exceeding \$~~1025~~4025,000 may be made only with the approval of the Commission. Any transfer of \$~~1025~~4025,000 or less made pursuant to this section shall be reported by the Executive Director to the Commission at its next regular business meeting.

**4.4 Purchasing.** The Executive Director shall install and maintain a purchasing system conforming to Section 14.9 of the Compact.

4.4 A. Standing authorization exists for purchases made consistent with the expense budget approved in accordance with Section 4.2 B. of this Manual and the budget operation set forth in Section 4.3 of this Manual, respectively.

**4.4 4.4 B.** When sealed bids, notice and publication are not required by the Compact, the purchasing agent shall, whenever feasible, seek and obtain informally at least three bids or proposals for any purchase exceeding \$2,500. A record of all such informal bids shall be

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~~made and maintained by the purchasing agent. Whenever and to the extent that the Executive Director deems it feasible, the purchasing agent may use the facilities for public purchasing which may be available in any department, agency, or office of any of the signatory parties.~~

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~~4.4 C. No purchase exceeding \$50,000 shall be made without prior approval by resolution of the Commission.~~

~~4.4 C. No purchase exceeding \$50,000 shall be made without prior approval by resolution of the Commission.~~

**4.5 Bills and Claims.** The Executive Director shall audit and examine or cause to be audited and examined all bills and claims against the Commission. The Executive Director shall approve each claim which the Executive Director finds to be lawfully incurred and truly stated. Such approved bills and claims shall be paid by the Director of Finance and Administration upon warrant of the Executive Director, as otherwise provided by the Manual.

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**4.6 Payrolls.** The Executive Director or a designee upon delegation by the Executive Director, and the Director of Finance and Administration or a designee upon delegation of the Director of Finance and Administration will review and approve each payroll. Payrolls shall cover gross compensation less all deductions required by law, and payments shall be made at such frequency as the Executive Director shall determine, but not less often than one each month.

**4.7 Disposal of Property.** The Executive Director may dispose of property that is surplus, damaged or no longer required for the efficient operation of Commission programs. Such property shall be disposed of at public auction held following due notice unless, in the judgment of the Executive Director, the property is of minor value or cannot feasibly be disposed of through public auction process. The Executive Director shall provide for the maintenance of records of all Commission property disposed of pursuant to this section.

**4.8 Official Depositories and Check Signatures.** The Commission shall designate one or more official depositories of funds of the Commission, and thereafter all funds, revenues and receipts of the Commission shall be deposited in an official depository. Withdrawals and disbursements therefore are authorized and may be made primarily by bank check and signed by the Executive Director and/or other Commission staff member so designated. Except for payroll checks, all checks shall be signed by two authorized individuals.

**4.9 Independent Audit.** The Commission will select and designate qualified certified public accountants to make an annual audit of the financial accounts of the Commission.

## CHAPTER 5 PERSONNEL POLICIES

### Section 5.1 Definitions.

- 5.1 A. *Abandonment of Employment.* Absence for more than five consecutive days without prior or post approval.
- 5.1 B. *Anniversary Date.* The employee's original date of employment with the Commission. ~~Upon promotion, the employee's anniversary date shall become the date of promotion. Employees taking leave without pay shall have their anniversary date changed to reflect the period of their absence.~~
- 5.1 C. *Appointment.* Action by the Executive Director in officially hiring an employee of the Commission.
- 5.1 D. *Cash.* Legal currency and coins of the U.S. Government or checks issued by the Commission.
- 5.1 E. *Class Allocation.* The assignment of a position to one of the classes in the position classification plan.
- 5.1 F. *Class or Class of Positions.* Includes all positions which are sufficiently similar as to:
1. kind of subject matter of work;
  2. level of difficulty and responsibility; and
  3. the qualification requirements of the work; to warrant similar treatment in personnel and pay administration.
- 5.1 G. *Class Re-allocation.* The reassignment of a position from one class to another to reflect:
1. a correction of an error in the original assignment, or
  2. a change in the duties and responsibilities of the position.
- 5.1 H. *Class Title.* Official title of all individual positions classified to that class.
- 5.1 I. *Demotion.* The change in status of an employee to a lower grade level.
- 5.1 J. *Dismissal.* The involuntary termination of employment for reasons other than lack of work or funds.
- 5.1 K. *Due Process.* Procedures required under Section 5.13 of this Chapter, titled *Disciplinary Action*.
- 5.1 L. *Employee.* The person who legally occupies a position.
- 5.1 M. *General Schedule.* ~~(Hereinafter, abbreviated as "GS").~~ The schedule of salary rates and ranges by grade, showing the minimum, midpoint, and maximum salaries for each grade, ~~established by the Commission~~ for the applicable fiscal year. ~~The Executive Director shall,~~

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at regular intervals, re-evaluate the GS and adjust as appropriate and necessary as determined in the Executive Director's discretion.

5.1 N. *Grade*. Includes all classes of position which, although different with respect to kind or subject matter of work, are sufficiently equivalent as to:

1. level of difficulty and responsibility, and
2. level of qualification requirements of the work;

5.1 O. *Line Supervision*. Supervises directly or through subordinates the activities of an employee.

5.1 P. *New Parenting*. Any situation in which a person becomes a parent to a child by virtue of birth, surrogacy, adoption, or fostering of the child.

5.1 P.5.1 Q. *Performance Rating*. An appraisal or evaluation of an employee's performance related to assigned duties in accordance with a pre-determined standard.

5.1 Q.5.1 R. *Permanent Appointment*. Employees in permanent table of organization positions (full-time positions expected to recur annually) who have satisfactorily completed the probationary period.

5.1 R.5.1 S. *Position*. The work, consisting of the duties and responsibilities, assignable to one employee.

5.1 S.5.1 T. *Position Description*. A description of the current duties and responsibilities assigned or delegated to one person in a specific organizational unit.

5.1 T.5.1 U. *Position Qualifications*. Qualifications established for a position encompassing required education, training, and experience to enable an employee to perform the responsibilities of that position in a satisfactory manner.

5.1 U.5.1 V. *Primary "Bumping" Rights*. The seniority right of an employee whose current position is abolished to occupy another position of the same or lower grade level within the organizational structure for which the employee is qualified.

5.1 V.5.1 W. *Probationary Appointment*. The initial employment of a person in a "permanent" table of organization position.

5.1 W.5.1 X. *Probationary Period*. A preliminary period of employment for the purpose of determining an employee's fitness for permanent status, or, in the case of promotions, fitness to continue in the higher position.

5.1 X.5.1 Y. *Promotion Date*. The date of a change in status of an employee to a higher-grade level.

5.1 Y.5.1 Z. *Reduction in Force*. The temporary or permanent termination of employment because of lack of work or funds.

5.1 Z.5.1 AA. *Resignation*. The voluntary termination of employment.



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5.1 AA.5.1 BB. *Secondary “Bumping” Rights.* The seniority right of an employee who is bumped to be reassigned to another position at the same or lower grade level within the organizational structure for which the employee is qualified.

5.1 BB.5.1 CC. *Seniority.* Seniority means the total time an employee has served in full-time permanent positions (table of organization positions).

5.1 CC.5.1 DD. *Seniority List.* A listing of all Commission employees in the order of seniority.

5.1 DD.5.1 EE. *Suspension.* The placing of an employee on leave with or without pay for disciplinary reasons.

5.1 EE.5.1 FF. *Table of Organization.* A list of all permanent positions within the Commission.

5.1 FF.5.1 GG. *Temporary Appointment.* An appointment for a limited or indefinite term as determined by the Executive Director.

5.1 GG.5.1 HH. *Transfer.* The change in status of an employee to another position within the Commission.

## 5.2 **Types of Commission Employees.**

5.2 A. *Full-Time Permanent.* An employee who has successfully completed the probationary period and has been appointed to permanent status by official action of the Executive Director. This status is available only to those employees filling table of organization permanent positions (full-time positions expected to recur annually). Employees in this category are entitled to the “due process” procedures provided in this Manual.

5.2 B. *Full-Time Probationary.* An employee who is hired to fill a table of organization permanent position and who is available for full-time permanent status. Employees in this category serve on an at-will basis and may be removed by the Executive Director.

5.2 C. *Full-Time Temporary.* An employee who is hired to fill a position with the Commission which is for a limited or an indefinite term. Employees in this category serve on an at-will basis and may be removed by the Executive Director.

5.2 D. *Seasonal.* An employee who is hired to fill a position with the Commission which is for an anticipated period of less than one year. Employees in this category serve on an at-will basis and may be removed by the Executive Director.

5.2 E. *Part-Time Permanent.* An employee hired to fill a permanent position with the Commission that requires less than a Basic Work Week, who has successfully completed the probationary period, and who has been appointed to permanent status by official action of the Executive Director. Employees in this category serve on an at-will basis and may be removed by the Executive Director.

5.2 F. *Part-Time Probationary.* An employee who is hired to fill a permanent position with the Commission that requires less than a Basic Work Week (as defined in Section 5.5.B), and who is available for permanent part-time status. Employees in this category serve on an at-will basis and may be removed by the Executive Director.

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**5.2 F.5.2 G.** *Part-Time Temporary.* An employee who is hired to fill any seasonal or temporary position with the Commission which requires less than a Basic Work Week. Employees in this category serve on an at-will basis and may be removed by the Executive Director.

### **5.3 Personnel Organization.**

5.3 A. *Personnel Officer.* The Personnel Officer, upon designation by the Executive Director, shall, in a staff capacity, be in charge of the personnel activities of the Commission and shall serve as the Commission's Equal Employment Opportunity Officer. This individual shall be responsible to the Executive Director for the implementation of the Commission's personnel policies. In addition, the Personnel Officer shall:

1. Conduct such research and make such surveys as may be required to keep the Executive Director continuously informed on any matter bearing on Commission personnel policies.
2. Maintain a continuous review of personnel policies and practices of the Commission, and report and recommend to the Executive Director such executive action needed to improve such policies and practices.
3. Prepare and recommend to the Executive Director such amendments to the compensation plan as are necessary to reflect changes in economic conditions and retention of competent employees.
4. Prepare (in concert with the appropriate line supervision) and recommend to the Executive Director such amendments to the position classification plan as are necessary to reflect changes in the nature and scope of work of positions in the position classification plan.
5. Maintain a record of all employees and positions in the position classification plan.
6. Develop standards for the establishment and maintenance of personnel records of Commission personnel.
7. Provide leadership in the application of sound principles of human relations in matters of supervision, discipline, employee adjustments, and work motivation.
8. Assist in the development of systematic training programs for the purpose of improving employee performances and organizational effectiveness.
9. Assist in recruiting applicants for position vacancies of the Commission.
10. Assist in the evaluation and investigation of applicants for Commission positions. Refer qualified applicants to Senior Management for consideration for appointment to position vacancies.
11. Provide, as needed, overall assistance to Senior Management in recruitment, interviewing, examination, appointment, position classification, compensation, training, grievances, and disciplinary problems.

5.3 B. *Personnel Folder.* A personnel folder shall be prepared for each employee of the Commission, and this file shall remain in the custody of the Personnel Officer. Employees shall be entitled to review their personnel folder by written request to the Personnel Officer.

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The personnel folder shall be subject to review by line supervision and the Personnel Officer.

The file shall include the following basic documents and records, where applicable:

- Application of employment;
- Letter of appointment;
- Letter of permanent appointment;
- Record of military service;
- Record of reserve, draft, or military status;
- Record of membership in Commission retirement system program;
- Record of membership in Commission Health Benefits Programs;
- Record of membership in Commission Benefit Programs; other
- Record of performance ratings (copies of rating forms);
- Record of changes in the employee's status, such as promotion, salary, etc.
- Record of separation.

If other information and records are deemed essential for inclusion in the personnel folder by the Deputy Executive Director or Executive Director, the employee shall be provided with a copy of all such documents and shall have the right to have a response to said document made part of the file.

- 5.3 C. *Classified Personal Information.* Certain personal material dealing with personnel of the Commission may be considered privileged material. Material so designated shall not be subject to review by persons other than the affected employee except upon the direct authorization of the Executive Director.

#### **5.4 Personnel Practice.**

- 5.4 A. *Application for Employment.* All persons seeking employment shall complete the standard Delaware River Basin Commission application for employment form, and this form shall be retained in the employee's personnel folder.
- 5.4 B. *False Information.* Applicants are held responsible for the validity of all information supplied the Commission in conjunction with their application for employment. The inclusion of false information shall be grounds for rejection of the applicant. In cases where the applicant has been employed by the Commission based upon false information, said employee shall be subject to dismissal.
- 5.4 C. *Hiring Policy.* All applicants for employment by the Commission shall be considered for appointment with respect to specific position vacancies in accordance with the following Commission policy:

It shall be the policy of the Commission to provide equality of opportunity in employment and participation in its programs. The Commission shall not discriminate against applicants on the basis of race, color, sex, sexual orientation, religious or political affiliation, national origin, age, mental or physical handicaps which are unrelated to their capacity to perform the work and programs of the Commission.

5.4 D. *Place of Residence.* An applicant’s place of residence shall not be a factor in determining eligibility for employment.

~~5.4 E. *Background Checks of Applicants.* Any applicant for employment by the Commission shall be subject to a routine background check, following appropriate legal guidance, which may include, without limitation: social security verification; prior employment verification; contacting personal and professional references; educational verification; criminal history; and motor vehicle records. Such background check shall be conducted prior to the new employee’s commencement of employment with the Commission.~~

~~5.4 E. *Recruitment.* The Executive Director shall determine the method or methods to be used in filling vacancies; provided, however, that:~~

~~5.4 F. *Filling Vacancies.* Vacancies may be filled using any of the following methods:~~

~~1. Internal lateral transfer or promotion;~~

~~0. External other agencies or outside recruitment.~~

~~5.4 F. ——— The Executive Director shall determine the method or methods to be used in filling vacancies; provided, however, that:~~

~~1. when the Executive Director decides to fill a vacancy through recruitment outside the Commission, the position shall be advertised widely, including on the Commission’s web site and on such job recruiting platforms as may, including on the Commission’s web site and on such job recruiting platforms as may, including on the Commission’s web site and on such job recruiting platforms as may be likely to reach qualified and diverse candidates; and~~

~~2. when the Executive Director decides to fill a vacancy through recruitment from among Commission’s active employees, notice of the existence of a vacancy shall be posted in both physical and virtual spaces frequented by employees, including but not limited to the lunch room bulletin board.~~

~~3. any notice of a vacancy shall contain the following minimum information:~~

- Title of position;
- Type of appointment;
- GS grade;
- Salary range;
- Minimum educational requirements;
- Minimum educational requirements;
- Minimum experience requirements;
- Position description;
- Instructions for applicants;
- Deadline for filing application.

~~5.4 J. *New Employee.* All new employees shall receive a letter of appointment. The Executive Director is the only person authorized to commit the Commission to employ an applicant. The letter of appointment will indicate the following:~~

~~Starting date;~~

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- Position title;
- GS grade or hourly rate of pay;
- Annual salary;
- Employee status;
- Description of employee status;
- Immediate supervisor;
- Any special conditions of employment.

**5.4 K.5.4 H.** *Probationary Period.* All employees classified as full-time probationary shall serve a one-year probationary period. This period will begin on the employee’s first working day. The Executive Director may, for due cause and upon written notice to the employee, extend or reduce this period if and when circumstances warrant. During the initial probationary period or any extension thereof, the employee serves at will, and may be terminated for any reason by the Executive Director.

**5.4 L.5.4 I.** *Promotional Probationary Period.* All employee promotions shall be subject to a one-year probationary period. The employee shall function in the new position and pay status until action has been taken either to:

1. make the promotion permanent; or
2. return the employee to the former position and pay status.

**5.4 M.5.4 J.** *Permanent Appointment.* An employee shall acquire permanent status upon satisfactory completion of the probationary period. Each employee receiving permanent status shall be formally notified in writing by the Executive Director of the permanent appointment and its effective date.

## 5.5 Working Conditions.

**5.5 A.** *Basic Work Day.* The basic work day for all Commission employees, except as hereinafter provided, shall be a seven and one-half hour day; generally within the period from 7:00 a.m. to 5:30 p.m.

**5.5 J.5.5 B.** *Basic Work Week.* The basic work week for all Commission employees shall be 37.5 hours, Monday through Friday.  
~~The Executive Director is authorized to promulgate rules and regulations establishing specific flex time schedules, to provide for the administration thereof and to make any necessary modifications from time to time.~~

~~The Executive Director has recommended the adoption of flex time schedules with starting and finishing times which allow for the following four options:~~

- ~~Option One: 7:00 am – 3:30 pm~~
- ~~Option Two: 7:30 am – 4:00 pm~~
- ~~Option Three: 8:00 am – 4:30 pm~~
- ~~Base Schedule: 8:30 am – 5:00 pm~~
- ~~Option Four: 9:00 am – 5:30 pm~~

**5.5 J.5.5 B.** *Basic Work Week.* The basic work week for all Commission employees shall be 37.5 hours, Monday through Friday.

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5.5 C. Flex Work Schedule. The Executive Director is authorized to establish, implement, revise, suspend and/or cancel a flex time work schedule to provide employees greater flexibility in their work schedule. Details on the available options can be found in the Employee Handbook.

5.5 K.5.5 D. Special Work Week or Day. The Executive Director is authorized to establish special hours of work including Saturday and Sunday employment for those positions or conditions requiring a special work week. Similar positions are authorized for a special work day as needed.

5.5 L.5.5 E. Pay Period. The pay period for all Commission employees shall be two calendar weeks.

5.5 M.5.5 F. Tardiness. All employees are expected to be punctual and to give their supervisor prior notice, when possible, in regard to expected tardiness. Tardiness may be cause for disciplinary action.

5.5 N.5.5 G. Absence from Work. Employees who wish to be excused from work will notify their supervisor via e-mail or another agreed-upon method as far in advance of the effective date of the leave request as practical. The supervisor will notify the employee of approval/disapproval.

In those cases where advance approval is not feasible (sick, emergency, etc.), employees are responsible for contacting their supervisor as soon as possible.

5.5 O.5.5 H. Preparation of Time Reports. Each employee shall submit time reports for approval in accordance with instructions provided by the Executive Director.

5.5 P.5.5 I. Specific Assignment. An employee who has attained the classification of Full-Time Permanent shall be subject to transfer within the organizational structure, including field and branch offices for administrative purposes, training purposes, or other reasons deemed necessary for the efficient operation of Commission activities. The term “permanent” does not in any way give an employee exclusive rights to a position. The term is used solely to reflect the employee’s rights to due process as provided for in this Manual.

## 5.6 Compensation Plans.

5.6 A. Full-Time Probationary and Permanent. Compensation will be as approved by the Executive Director in accordance with the General Schedule.

5.6 B. Part-Time Probationary and Permanent. Compensation will be as approved by the Executive Director in accordance with the General Schedule.

5.6 C. Full-Time Temporary. Compensation will be as approved by the Executive Director consistent with the General Schedule.

5.6 D. Part-Time Temporary. Compensation will be at an hourly rate approved by the Executive Director.

5.6 E. Seasonal. Compensation will be at an hourly rate approved by the Executive Director.

5.6 F. *Payment Frequency.* Each Commission employee will be paid bi-weekly in accordance with a schedule established by the Executive Director.

5.6 G. *Performance Evaluation and Performance-Based Compensation Adjustments.*

1. *Annual Evaluations and Performance Increases.* Employee performance reviews shall be conducted annually by the employee's supervisor for the period running January 1 through December 31, in accordance with a system established by the Executive Director. A probationary employee's performance shall be reviewed every three months (four times) during the employee's first 12 months of employment. During the employee's second year of employment, the employee will be reviewed for the period running from the first anniversary of the employee's start date through December 31. Additional performance ratings may be required thereafter at the discretion of the Division/Branch Head. Otherwise, the employee's performance will be reviewed annually each December for the service period commencing January 1 and ending December 31.

Annually, effective April 1, employees who have continuously served since May 1 of the previous year will be eligible to receive a performance increase. The Executive Director shall establish a system that will provide for the calculation and distribution of annual performance increases among eligible employees, taking into consideration the financial resources available under the approved operating budget and the performance rating of the employee. The "compa-ratio" of the employee (defined as the current salary divided by the midpoint of the grade listed in the General Schedule) may also be considered.

The Executive Director shall have the authority to deny an increase for reasonable cause, including but not limited to: misconduct, insubordination, abuse of sick leave privileges, tardiness, or unsatisfactory performance of the duties and responsibilities of the job assigned, either during or after the performance period.

- 5.2. *Professional Licenses.* It is the objective of the Commission to encourage its employees to attain recognized professional status. Certain positions require professional licenses, and the salaries for those positions include recognition of this requirement. The Executive Director is authorized to reward employees who have attained such status in positions not requiring professional licenses by an increase of 2% of their salary, not to exceed the maximum of their grade. The licenses qualifying for this reward are those issued for:

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Professional Engineer;  
Professional Geologist;  
Professional Hydrogeologist;  
Professional Planner; and  
Certified Public Accountant.

Failure to maintain professional licenses may be cause for rescinding the reward or demotion in grade.

Employees may request reimbursement of professional license fees and memberships that are specifically related to the employee’s duties and responsibilities as outlined in the Employee Handbook.

3. *Merit Increase*. The Executive Director, not more than once annually, is authorized to award deserving employees for exceptional service to the Commission. The Executive Director will determine the criteria for this award.

~~— Reimbursement for one membership per employee in professional organizations.~~

- a. ~~Reimbursement for any employee generally shall not exceed \$250 in a twelve-month period commencing July 1.~~

~~— Reimbursement requests shall be submitted through supervisors to the Executive Director. The Executive Director may waive this policy when an individual membership in a professional organization provides specific benefits to the Commission not otherwise available absent that membership.~~

- 4.3. *Merit Increase*. The Executive Director, not more than once annually, is authorized to award deserving employees for exceptional service to the Commission. The Executive Director will determine the criteria for this award.

4. *Promotion*. Upon promotion, an employee will be advanced to the grade assigned to the new position classification. The salary for the employee in the new position shall reflect the skills and experience the employee possesses and transfers to the position. The salary shall be set by the Executive Director at the time of the promotion, but in no case shall the salary be less than the minimum or greater than the maximum for the grade as set forth in the General Schedule, and in no case shall the salary be less than the employee’s current salary.

- 5.6 H. *Overtime*. Hours worked in excess of the basic work day shall constitute overtime. Compensatory time and paid overtime must be approved by both the supervisor and the Executive Director. Both compensatory time and paid overtime should be approved by the supervisor in advance whenever possible. The Executive Director shall determine whether overtime will be paid in cash or equivalent time off.

1. Non-seasonal employees holding a position classified at the E24 or higher grade are not eligible for paid overtime or compensatory time. The Executive Director may provide for an allowance of compensatory time as appropriate, but not necessarily on an hour for hour basis.

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2. Non-seasonal employees holding positions classified as E12 through E22 are not eligible for paid overtime. Their performance of Commission functions outside the normal work week or day shall be recognized by allowance of compensatory time as approved by their supervisor on an hour for hour basis.
3. All employees holding positions classified N2 through N10 are eligible for either paid overtime or compensatory time as approved in advance by the supervisor, and in the case of paid overtime, also by the Executive Director.

Employees shall be compensated for overtime as follows:

- a. cash payment equal to 1-1/2 times the employee's standard hourly rate for each hour of overtime worked;
- b. equivalent time off equal to 1-1/2 hours for each hour of overtime worked.

5.6 I. Employees who have accumulated compensatory time shall be allowed to carry forward those hours to future years up to a maximum of 240 hours.

5.6 J. An employee who leaves the employ of the Commission shall be compensated in cash for compensatory time up to a maximum of 240 hours, or shall liquidate the compensatory time by equivalent time off prior to severance from employment. The Executive Director shall approve a combination of payment by cash and/or compensatory time in liquidation of compensatory time credits, as the Executive Director deems appropriate.

5.6 K. In the event of an employee's death, the estate or beneficiary shall be compensated in cash for accumulated compensatory time.

5.6 L. The monetary value of all compensatory time shall be computed as follows:

Annual Salary / 26 = Gross Pay per Pay Period.  
Gross Pay per Pay Period / 75 hours = Hourly Rate.  
Hourly Rate \* Overtime Credit = Monetary Value.

5.6 M. Payment of Accrued Vacation upon Resignation. An employee shall be compensated in cash for vacation accumulated and unused as of the effective date of the employee's resignation up to the maximum carryover limit set forth in Section 5.7.F.6. Alternatively, with the Executive Director's prior approval, the resignation date may be postponed to allow vacation to be removed through time off.

**5.7 Fringe Benefits for Employees.** Each type of Commission employee is entitled to the fringe benefits outlined herein:

5.7 A. *Full-Time Probationary and Full-Time Permanent Employees:*

Social Security  
Unemployment Compensation  
Pension/Life Insurance

Health Benefits as provided under the State of New Jersey Health Benefits Program  
Dental Program—employee and dependents  
Vacation  
Sick Leave  
Personal Leave  
Franchise Leave  
Approved Holidays  
Special Leave with Pay  
Special Leave without Pay  
Long-Term Disability  
IRC Section 125 health benefits plan options  
State of New Jersey  
~~IRC Section 125 health benefits plan options~~  
~~Short-Term~~ **Temporary** Disability

5.7 B. *Full-Time Temporary Employees:*

Social Security  
Unemployment Compensation  
Pension/Life Insurance  
Health Benefits as provided under the State of New Jersey Health Benefits Program  
Dental Program—employee only  
Vacation  
Sick Leave  
Personal Leave  
Franchise Leave  
Approved Holidays  
Long-Term Disability  
  
IRC Section 125 health benefits plan options  
State of New Jersey  
~~Temporary~~ ~~IRC Section 125 health benefits plan options~~  
~~Short-Term~~ Disability

5.7 C. *Part-Time Temporary Employees:*

Social Security  
Unemployment Compensation  
Pension/Life Insurance (subject to plan requirements)  
Health Benefits as provided under the State of New Jersey Health Benefits Program  
Dental Program—employee only (subject to plan requirements)  
Vacation

IRC Section 125 health benefits plan options (subject to plan requirements)  
State of New Jersey Temporary Disability  
State of New Jersey Mandated Sick Leave as required based on length of service  
State of New Jersey Mandated Defined Contribution Retirement Plan if not eligible for  
PERS and earns over the state-mandated amount

5.7 D. *Part-Time Probationary and Part-Time Permanent Employees:*

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Social Security  
Unemployment Compensation  
Pension/Life Insurance (subject to plan requirements)  
Health Benefits as provided under the State of New Jersey Health Benefits Program (subject to plan requirements)  
Dental Program—employee only (subject to plan requirements)  
Vacation  
Sick Leave—prorated  
Approved Holidays—pro-rated based on scheduled weekly work schedule.  
  
Long-Term Disability  
~~Two holidays per pay period—25% of hours worked~~  
  
Long-Term Disability  
IRC Section 125 health benefits plan options (subject to plan requirements)  
IRC Section 125 health benefits plan options (subject to plan requirements)  
State of New Jersey Temporary Disability  
State of New Jersey Mandated Defined Contribution Retirement Plan if not eligible for PERS and earn over the state-mandated amount

5.7 E. *Seasonal:*

Social Security  
Unemployment Compensation—depending on status of employee  
State of New Jersey Mandated Sick Leave as required based on length of service  
State of New Jersey Mandated Defined Contribution Retirement Plan if not eligible for PERS and earn over the state-mandated amount

5.7 F. *Description of Benefits.*

1. *Social Security* – as provided by Federal law.
2. *Unemployment Compensation* – as provided by State of New Jersey law.
3. *Pension/Life Insurance* – Membership in the New Jersey Public Employees Retirement System, rules and regulations as promulgated by the State of New Jersey. The Commission will pay the employee the amount of an annual premium on a term life insurance policy equal to one and one-half times the employee's base compensation. The Commission will pay the employee the amount of an annual premium on a term life insurance policy equal to one and one-half times the employee's base compensation.
4. Dental Insurance – shall be provided annually from options available through the State of New Jersey  
The Executive Director shall establish on an annual basis the level of the Commission's contribution to the dental insurance premiums of active employees and their dependents.

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5. Health Insurance – shall be as provided by the State of New Jersey Health Benefits Program. Minimum employee contributions are mandated by state law and are based upon the full-time equivalent salary of any employee receiving the benefit. The State

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of New Jersey Health Benefits Program establishes on an annual basis the level of employee contributions toward the health insurance premiums for active employees and their dependents.

Retirees: Since January 1, 2006, the eligibility of current DRBC employees for a health benefit in retirement has been defined by Resolution No. 2005-14, adopted pursuant to N.J.S.A. 52:14-17.38 (also known as “Chapter 48”) for seven classes of eligible retirees. However, the amount of the benefit, expressed in terms of the percentage of health insurance premiums to be covered by the Commission for the retiree, surviving spouse, and dependents, is no longer determined solely by that resolution.

Pursuant to a New Jersey statute enacted in 2011, known as “P.L. 2011, Chapter 78” (also simply “Chapter 78”), with limited exceptions, the State of New Jersey imposed a requirement that all public employees who retire after June 28, 2011 and receive employer-paid health benefits must make a minimum standard contribution to the cost of their health insurance must make a minimum standard contribution to the cost of their health insurance premiums.

The amount of an individual’s health benefit upon retirement is now determined by reference to three key documents:

- a. Resolution No. 2005-14 identifies the seven (7) classes of Commission retirees who are eligible to receive a health care insurance benefit in retirement, and the corresponding Chapter 48 benefit for each.
- b. The Health Benefit Contribution Tables established by Chapter 78 establish the minimum percentage contribution by retirees for their health care
- b. ~~Employees~~The Health Benefit Contribution Tables established by Chapter 78 establish the minimum percentage contribution by retirees for their health care benefits.<sup>1</sup> See: <https://www.state.nj.us/treasury/pensions/documents/hb/oe2021/ha0886.pdf>. Where the minimum retiree contribution established by Chapter 78 exceeds the retiree contribution defined by Resolution No. 2005-14, the Chapter 78 minimum controls.
- c. The health insurance plan choices and corresponding premiums for any given plan year establish the benefit amounts from which the employees’ percentage contributions are deducted. See: <https://www.state.nj.us/treasury/pensions/hb-retired-shbp.shtml>.

The seven classes of DRBC employees eligible for health benefits upon retirement as defined by Resolution No. 2005-14, and the benefits originally assigned them by that

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<sup>1</sup> To use the linked worksheet and tables, it is necessary to understand: (a) that under New Jersey law concerning pensions and benefits, the Commission is considered a “Local Government Employer” and the Commission’s employees, “Local Government Employees”; and (b) that a retiree’s “annual retirement allowance” is the amount of the employee’s annual pension.

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resolution (“Chapter 48 benefits”) are described below.<sup>2</sup> With the exception of employees in Class 2 however, as of 2021 all active DRBC employees who attain eligibility for a health benefit upon retirement will be subject to the minimum retiree contributions established by Chapter 78, P.L. 2011 of New Jersey.

- Class 1: For employees retiring on ordinary disability or accidental disability having met the service requirement established by the Public Employees’ Retirement System (“PERS”) regulations, the Chapter 48 benefit included 100 percent of the health care premium for the retiree, retiree’s surviving spouse, and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.
- Class 2: For employees who attained more than 20 years of service credit in PERS prior to January 1, 2006 and who retire with 25 years or more of service credit in PERS, the Chapter 48 benefits consist of 100 percent of health care premiums and Medicare Part B reimbursements for the retiree, retiree’s surviving spouse, and dependents. These benefits, “grandfathered” by Chapter 78, are not subject to the minimum retiree contribution requirement.
- Class 3: For employees hired prior to January 1, 2006 who had attained fewer than 20 years of service credit in PERS by that date and who retire with 25 years or more of service credit in the PERS system, including at least 10 years of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the health care premium for the retiree, retiree’s surviving spouse, and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.
- Class 4: For employees hired on or after January 1, 2006 who retire with 25 years or more of service credited in the PERS system, including at least 10 years of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the health care premium for the retiree and 50 percent of the premium for the retiree’s surviving spouse and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.
- Class 5: For employees hired prior to January 1, 2006 who retire at age 62 or older after 15 or more years of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the health care premium for the retiree and 75 percent of the premiums for the retiree’s surviving spouse and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.
- ~~Employees~~Class 6: For employees hired ~~on or~~ after January 1, 2006 who retire at age 62 or older ~~after with 15 years~~ or more years of service with the Commission ~~shall be eligible for Commission paid benefits, which shall consist, the Chapter 48 benefit consisted of 100% percent of the premium cost for the retiree and 50% 75 percent of premium cost for~~ the premiums for the retiree’s surviving spouse and

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<sup>2</sup> In the event of any discrepancy between the narrative furnished here, on the one hand, and the provisions of DRBC Resolution No. 2005-14 and applicable New Jersey law, on the other, the resolution and state law are controlling.

~~departments, Public Health and Commission Chapter 78 minimum contributions apply to Medical Board of Health funds~~

~~- Class 7: For employees in the positions of Executive Director and Deputy Executive Director who retire after 15 years or more of service with the Commission at age 62 or older or who retire with 25 years of credit in the PERS system and at least 10 years or more of service with the Commission, the Chapter 48 benefit consisted of 100 percent of the premium cost for the retiree, spouse and dependents. Chapter 78 minimum retiree contributions now apply to these benefits.~~

~~Not all those eligible for a pension under PERS will necessarily receive a health benefit in retirement. Retirees who do not meet the criteria for any of the seven classes defined in Resolution No. 2005-14 are not eligible for DRBC health benefits upon retirement.~~

~~An employee denied membership in the New Jersey Public Employees' Retirement System may elect, in lieu of the retiree health benefit provided through PERS, to receive either cash payments by the Commission to the employee (or surviving spouse) or premium payments by the Commission to a health insurance carrier of the employee's choice, in the same amounts and at the same times as payments the Commission would otherwise make on the employee's behalf to the New Jersey State Division of Pensions and Benefits under Chapter 48. To the extent possible, the Commission shall attempt to structure any arrangement described in this paragraph so that payment of such retired employee's premiums for health benefits is not subject to taxation, which may include requiring that the employee elect and arrange for payments to be made to a health insurance carrier in advance of his or her retirement.~~

~~Note — Commission Resolution No. 2005-14 provided for the establishment of the seven "class employees" in retirement as described above. The classes are subject to income based retiree contributions imposed by Chapter 78, P.L. 2011 unless grandfathered. Chapter 78 grandfathering occurs if the employee has 20 years of service as of June 28, 2011 or is 62 years of age with 15 years of Commission service as of June 28, 2011. Grandfathered retirees will receive the benefit as noted above.~~

~~—5Not all those eligible for a pension under PERS will necessarily receive a health benefit in retirement. Retirees who do not meet the criteria for any of the seven classes defined in Resolution No. 2005-14 are not eligible for DRBC health benefits upon retirement.~~

6. ~~IRC Section 125 Health Benefits Plan Options – Section 125 of the Federal Internal Revenue Code allows an employee the opportunity to set aside before-tax dollars to pay for qualified medical, dental and dependent care expenses. The Executive Director is authorized to establish Section 125 health benefits plan options as the Executive Director deems appropriate. The available options are outlined in the Employee Handbook.~~

~~Premium Conversion Plan (PCP). The PCP allows an employee to pay medical and/or dental premiums with before tax dollars.~~

~~Unreimbursed Medical Spending Account (UMSA). The UMSA allows an employee to set aside money to pay for qualified medical and dental benefits not paid for by any~~

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~~go beyond the \$2500 limit. The maximum amount any individual employee may set aside shall be \$2500.~~  
~~Dependent Care Spending Account (DCSA). The DCSA allows an employee to set aside funds to pay for anticipated expenses related to dependent care required to permit employees and the spouse to work. The maximum amount any individual employee may set aside shall be \$5,000.~~

~~6~~ 7. *Vacation* – Commission employees shall earn vacation credits in the following manner:

*Full-Time Employees:*

Years of Service	Annual Rate (Days) Vacation Credit	Hourly Rate per 2-Week Pay Period
0	13	3.75
1	14	4.04
2	15	4.33
3	16	4.62
4	17	4.90
5	18	5.19
6	19	5.48
7	20	5.77

When hiring individuals for full-time senior and management positions (those classified E-22, E-24 and E-26 in the grade structure established by Resolution No. 2003-15), the Executive Director is authorized to award vacation credits in excess of the number otherwise prescribed for new hires, but not to exceed 20 vacation days per year.

*Part-Time Employees* — ~~Annual~~ Bi-weekly Vacation Credit will be computed as follows:

(Step 1)	Hours Worked <del>per Week</del> <u>bi-weekly divided by 75</u> hours = Percentage <u>37.5</u> (Use in Step 2)
(Step 2)	Percentage (from Step 1) * <u>multiplied by full-time</u> Hourly Rate per 2-Week Pay Period <u>from chart above</u> = Part-time Vacation Credit

Vacation credit carryover is limited to a maximum of 300 hours. All hours in excess of 300 will be eliminated on December 31 of each year.

The time at which Vacation may be taken by an employee shall be subject to approval by the employee’s ~~Deputy Executive Director/Branch Head~~ supervisor.

In the event of an employee’s death, the estate or beneficiary will be compensated in cash for unused vacation credit, up to a maximum of 300 hours.

~~7~~ 8. *Sick Leave* – Absence necessitated by the personal illness or other physical disability of the employee; and, for valid sick-related reasons as discussed under “Other Absences” below.

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Employees shall earn sick leave credits at the rate 3.75 hours per 75-hour pay period.

*Part-Time Probationary and Permanent Employees –Sick Credit will be computed as follows:*

(Step 1) *Hours Worked bi-weekly divided by 75 hours = Percentage (Use in Step 2)*

(Step 2) *Percentage (from Step 1) multiplied by 3.75 hours per 2-Week Pay Period = Part-time Sick Credit*

Unused sick leave credits may be accumulated by each employee without limit. There shall be no payment for accrued sick leave upon termination of employment, except for retirees under the rules stated below.

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Full-Time Permanent Commission Employees retiring from the Commission under the Rules and Regulations of the New Jersey Public Employees' Retirement System shall be compensated for unused sick leave as follows:

- One day's pay for each two days of unused sick leave as of the date of retirement, with a limit of 60 days' pay. Balance of unused sick leave over 120 days is lost.
- Full-Time Permanent Commission Employees who have been denied membership in the New Jersey Public Employees' Retirement System shall be afforded a like benefit.
- Part-Time Permanent Commission Employees retiring from the Commission under the Rules and Regulations of the New Jersey Public Employees' Retirement System shall be afforded a like benefit for unused sick leave.

*State of New Jersey Mandated Sick Leave* – Part-Time Temporary Employees and Seasonal Employees are eligible for State of New Jersey Mandated Sick Leave. These employees will accrue for every 30 hours worked, one hour of sick leave and shall be eligible to use the earned sick leave beginning on the 120<sup>th</sup> calendar day after the employee commences employment.

89. *Extended Sick Leave* – Absence for illness or physical disability in excess of five consecutive work days shall be considered extended sick leave. ~~If requested by the Executive Director, employees~~ Employees are required to provide a doctor's certification that:

- The employee was ill or disabled for the period indicated and not able to work;
- The employee is now able to return to work.

910. *Donated Leave Program.*

INTENT. The intent of the donated leave program is to provide a means to assist employees who, because of long-term personal illness, have exhausted their leave benefits and would otherwise be subject to a severe loss of income during a continuing absence from work. The program is not intended to provide supplemental income



which would result in compensation levels exceeding normal wages for employees who have other sources of substitute income such as that provided by disability insurance programs.

**POLICY.** It shall be the policy of the Commission to administer the Donated Leave Program in such a manner as to ensure the intent is met without interfering with any employee's rights to privacy as otherwise protected by Federal or State law, rules or regulations.

An employee shall be prohibited from threatening or coercing or attempting to threaten or coerce another employee for the purpose of interfering with rights involving donating, receiving or using donated leave time. Such prohibited acts shall include, but not be limited to, promising to confer or conferring a benefit such as an appointment or promotion or making a threat to engage in, or engaging in, an act of retaliation against an employee. Such acts will be considered grounds for disciplinary action.

The identity of all donors shall be kept confidential by the Commission.

All rights and benefits of a leave recipient continue to accrue while using donated leave time as if employee was using personally accrued leave time.

**DEFINITIONS.**

*Employee* – shall mean any full or part-time employee on the Commission payroll who would normally earn sick, vacation and administrative leave.

**ELIGIBILITY.**

a. *Recipient eligibility:*

1. Employee must have completed at least one year of continuous service with the Commission;
2. Employee is suffering from a severe health condition or injury which is expected to require a prolonged absence from work by the employee;
3. Employee must have exhausted all accrued sick, vacation and administrative leave in addition to any earned compensatory time;
4. Employee must not receive any supplemental income, other than that provided by the Commission that would result in a compensation level exceeding their normal wages during participation in the Donated Leave Program;
5. Employee must also receive at least five (5) sick or vacation days or a combination thereof from one (1) or more donors to participate up to a career maximum of 250 days. Donated time shall not be credited on a retroactive basis;
6. Employee, or member of the employee's family, must consent to the posting of a notification of the employee's need and approval to be a recipient of donated leave time.

b. *Donor eligibility:*

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1. Donor must have remaining after donation at least 20 days of accrued sick leave if donating sick leave and at least 10 days of accrued vacation leave if donating vacation leave;
2. Donor must donate whole sick or whole vacation days.
3. The donor may not donate more than 10 such days to any one recipient.

#### RESPONSIBILITIES.

Employees wishing to participate as a recipient are responsible for providing the Commission with medical verification from a physician or other licensed health care provider concerning the nature and anticipated duration of the disability resulting from the serious health condition or injury. (Note: A member of the immediate family may file the application on behalf of the employee when such employee is unable to do so on the employee's own behalf.)

Employees wishing to participate as a recipient are responsible for using any donated leave only (i) after exhausting all personally accrued sick, vacation and administrative leave in addition to any earned compensatory time and (ii) before using any State of New Jersey Temporary Disability or Long Term Disability leave.

The Executive Director or Medical Designee shall be responsible for reviewing the medical documentation provided by the employee and making a determination of eligibility as a participant in the Donated Leave Program. The review shall only determine or clarify if the employee's physical condition would qualify the employee for eligibility in the program. All documentation submitted will become part of the employee's permanent personnel file and will not be released without the written authorization of the employee or employee's designee.

The Personnel Officer shall be responsible for establishing the necessary internal operating procedures which provide for: (1) timely processing of employee applications to the recipients; (2) notification to all Commission employees of eligible recipients; and (3) establishment of a recordkeeping system which can track donated time by recipient and donor, time used and balances returned.

The Personnel Officer shall be responsible for the investigation of any complaints received from employees regarding acts of coercion or retaliation as prohibited by this Policy and Procedure.

#### PROCEDURES.

The Employee shall:

Upon being taken ill or incurring an injury of a catastrophic nature which is anticipated to result in a disability of a prolonged nature which will cause the exhaustion of all accrued leave time, as described in Eligibility Paragraph A.3 above, submit the Recipient Application and Affidavit with any supporting documentation. (Note: in instances where the employee is unable to file the necessary forms, they may be filed by a member of the immediate family.)

The Personnel Officer shall:

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- a. Upon receiving application for participation, request the Personnel Officer to review the employee's leave and current payroll status.
  - b. Complete review of medical documentation made available with regard to severity and anticipated absence, consulting with employee's physician if necessary.
  - c. Initiate a review of the employee's leave and current payroll status as requested by the Executive Director. Upon receipt of Recipient Application and Affidavit and medical approval, verify that employee meets all other eligibility requirements. Advise the employee in writing if found to be ineligible as a participant and reasons for ineligibility.
  - d. Prepare a notice announcing the employee as an eligible recipient. All announcements should indicate that Donor Transfer Forms are available from the Personnel Officer.
  - e. Once minimum required donations are received on behalf of the recipient, advise employee by letter of approval and payroll status. Recipients should be periodically updated as to the status of donations received.
  - f. Upon the recipient's return to work or separation from the Commission, determine if there is an unused balance of donated leave time. Any unused donated leave time shall be returned to the donor(s) on a prorated basis, except if the prorating of leave days results in less than one day per donor to be returned. Advise donor(s) accordingly of all adjustments made to leave balances.
11. Other Absence – The following types of absence may be charged to sick leave with the approval of the Executive Director:
- Illness or death in the employee's immediate family;
  - Visit to doctor or dentist (immediate family);
  - Maternity or New Parenting in the employee's immediate family—not to exceed two weeks.
12. Reinstatement of Sick Leave – Any employee who has been separated as a result of layoff and is reinstated from a re-employment priority list shall be entitled to full restoration of unused sick leave lost at the time of separation.
13. Personal Leave – Leave with pay for personal business. This type of leave is in addition to other leave credits. Full-time employees are entitled to 30 hours of personal leave per fiscal year, pro-rated as of the date of such employee's termination. This leave cannot be carried over to the next fiscal year and will not be paid out upon termination. If an employee uses more personal leave time than accrued at time of termination, employee will be required to reimburse the Commission either by deducting from any vacation or compensation time payout.
14. Franchise Leave – Leave for the purpose of voting in the General Election each year – three hours.
- ~~14-15. Approved Holidays – The Commission recognizes the annual holidays set forth in two groups below. The, and the Commission's offices will be closed to the public and employees on each of the six holidays in the first group. The Commission's offices will be closed to the public on the five holidays in the second group, however, eligible~~

~~employee's full pay sick leave credits may be advanced to an employee absent due to personal illness or physical disability, who has exhausted such employee's accumulated sick leave and vacation credits. Such advanced sick leave credits shall be repaid as soon as practicable after the employee's return to duty from subsequent accumulation of applicable credits. The outstanding unrepaid sick leave credits advanced to any employee under this provision shall not at any time exceed a total of ten days.~~

- New Year's Day
- Martin Luther King Jr.'s Birthday
- ~~Independence Day~~
- ~~Labor Day~~
- ~~Thanksgiving Day~~
- ~~Christmas Day~~
- Martin Luther King Jr.'s Birthday
- Presidents Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Columbus Day/Indigenous Peoples Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

When any of the above listed holidays falls on a Saturday, it shall be observed on the previous Friday.

When any of the above listed holidays falls on a Sunday, it shall be observed on the following Monday.

In each calendar year, the Executive Director will authorize one additional holiday in conjunction with a national holiday.

The Executive Director may also authorize such other Commission holidays, as circumstances dictate, commensurate with special observances or occasions appropriate to any of the signatory parties.

The Commission recognizes that in addition to the traditional government holidays listed above, individuals and groups from diverse backgrounds celebrate other holidays throughout the year that are not listed. Employees may request leave to celebrate these holidays using available vacation, personal leave, earned compensatory time off, or unpaid leave. Unless there are critical needs that would prevent approval of requested leave time, direct supervisors are encouraged to support these holidays.

**16. Special Leave with Pay.**

**a. Advanced Full Pay Sick Leave Credits.** At the discretion of the Executive Director, full pay sick leave credits may be advanced to an employee absent due to personal illness or physical disability, who has exhausted such employee's accumulated sick leave and vacation credits. Such advanced sick leave credits shall be repaid as soon as practicable after the employee's return to duty from subsequent accumulation of applicable credits. The outstanding unrepaid sick leave credits advanced to any employee under this provision shall not at any time exceed a total of ten days.

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Upon termination of the employee's services, any such advance sick leave not previously repaid or offset shall be deducted from the salary or wages of the employee.

**b.** *Administrative Leave.* At the discretion of the Executive Director, administrative leave with pay may be authorized in those instances when conditions warrant this action. Examples, but not limitations, are:

- (1) extraordinary weather conditions;
- (2) equipment breakdown; or
- (3) acts of God.

Employees on a paid leave status when administrative leave is authorized will be charged with leave as though no closing occurred.

**e.c.** *Leave Due to Injury or Disease Incurred in the Performance of Duty.* Any employee of the Commission who is absent, by direction of a physician, from duty because of occupational injury or disease falling within the scope of the Worker's Compensation Law, pending adjudication of the case, and while the disability renders the employee unable to perform the duties of the position, may be granted leave with full pay. This leave shall not exceed six months and is subject to the approval of the Executive Director.

Should the disability persist beyond this period, the employee may then use accumulated sick leave credits, advance sick leave benefits, and following this, the employee may then request to be placed on special leave without pay for a further period not to exceed six months. When such employee is awarded Worker's Compensation for the period of leave with pay, the employee then shall compensate the Delaware River Basin Commission for the proper share of the pay involved as soon as Worker's Compensation is received.

**d.** *Leave for Court or Jury Attendance.* On proof of the necessity of jury service or attending court session pursuant to subpoena or other order of the court, an employee shall be granted a leave of absence by the Executive Director. The employee shall be paid the normal rate of pay less whatever compensation (not expenses) the employee receives for jury service or court attendance.

**e.** *Leave for Quarantine.* If an employee who is not ill is required to remain absent because of quarantine, and presents a written statement of the attending physician or local health officer proving the necessity of such absence, the employee shall be granted leave with pay for the period of the required absence. This absence will not be charged against the employee's other leave credits. Prior to return to duty, such employee may be required to submit a written statement from the local health officer having jurisdiction that the return to duty is in accordance with applicable health requirements.

**f.** *Leave of Absence with Pay for National Guard or Reserve Duties.* Employees of the Commission who are members of any National Guard unit of the signatory parties, or who are members of any reserve component of the U.S. Armed Forces, are entitled to a leave of absence without loss of pay in order to engage in field training authorized by the applicable authorities. An employee on leave of absence

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under this provision shall return to Commission employment within a period of time designated by the Executive Director.

This type of leave will not normally exceed 15 work days in any calendar year, and in addition, this type of leave will not be charged in connection with other earned types of leave. See Sections 16.e. and 16.f for active duty provisions.

17. Special Leave without Pay.

- a. Time spent on leave without pay will not be eligible for credit toward an increment; therefore, the anniversary date of the employee will be changed to reflect the loss of this credit.
- b. A full-time probationary or permanent employee on leave without pay will not be eligible for the following types of fringe benefits:

- Social Security
- Unemployment Compensation
- Pension/Life Insurance
- Vacation accrual
- Sick leave accrual
- Personal leave
- Franchise leave
- Holiday pay

- c. A full-time probationary or permanent employee on leave without pay due to personal illness and/or maternity leave will receive the same Commission-paid health benefits, dental benefits and life insurance coverage as if the employee were an active employee, for a period not to exceed 12 months unless otherwise extended by the Commission. Employee contributions will be on an after-tax basis during unpaid leave and must be received by the first of each month in which coverage is effective for medical and dental coverage. The employee must follow the NJ State benefits guidelines for supplemental life insurance coverage.
- d. Maternity and New Parenting Leave. A pregnant or New Parenting employee holding a position by permanent appointment shall be granted a leave of absence without pay for a period that, together with any leave taken by the pregnant or New Parenting employee in connection with the same pregnancy or New Parenting situation pursuant to the Temporary Disability and Family Leave Insurance programs (as set forth in Section 5.7.F.18 and Section 5.7.F.19, respectively) is equal to six months cumulatively, which may be extended by the Executive Director to a maximum of one year.

The pregnant or New Parenting employee may be allowed to reduce the period of unpaid leave by the use of any or all earned leave credits.

—A physician's statement as to the fitness of thea pregnant employee for the performance of duties may be required at any time before leave commences, and may be required prior to return to duty.

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- e. Leave for National Emergency. A permanent employee may, at the discretion of the Executive Director, be granted a leave of absence without pay for a period of time in order to enter military service of the United States or its associated powers

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in time of national emergency, or to engage in defense industries for the United States or its associated powers. Such leave of absence shall not extend beyond six months after the termination of the national emergency, as determined by Congress or Presidential proclamation.

Service in a National Guard unit federalized in a national emergency shall fall within the provision of this section. Employees who enlist or are drafted into alternative civilian service shall be subject to the provisions of this section.

- f. *Leave for State Emergencies.* A permanent employee, at the discretion of the Executive Director, may be granted a leave of absence without pay during a period of time that the employee is called into state service in connection with obligations in the National Guard, civil defense, or other similar types of recognized organizations. Normally, this type of leave would apply during specific periods of emergency including disaster emergencies, and will be based upon a formal proclamation of the applicable authority. A leave of absence under this provision shall not extend beyond 48 hours after the release of the employee from the emergency obligation.
- g. *Leave for Service with a Signatory Party.* A permanent employee may be granted a leave of absence without pay at the discretion of the Executive Director, in connection with the employee's appointment to a position with any of the signatory parties which is in an exempt or noncompetitive class of the applicable signatory party. An employee may request extensions for additional periods of one year, provided, however, that no such leaves of absence under this provision, including extensions, shall extend beyond three years.
- h. *Leave for Special Assignment.* A permanent employee may, at the discretion of the Executive Director, be granted a leave of absence without pay in filling special assignments with recognized organizations, either governmental or private. Enrollment at an educational institution to fulfill the requirements of a high school diploma or college degree shall fall within the provisions of this section. The basic criteria shall be that it is in the interest of the Commission's activities. A leave of absence under this provision shall expire at a time designated by the Executive Director.
- i. *Leave for Personal Purposes.* A permanent employee may, at the discretion of the Executive Director, be granted a leave of absence without pay for purposes that are of a personal importance to the employee. A leave of absence under this provision shall expire at a time designated by the Executive Director, taking into consideration all factors involved in the release of the employee from regular assignment.

18. *Temporary Disability – This mandatory benefit will consist of enrollment in the New Jersey Temporary Disability Insurance Program commencing at the inception of employment. Employee cost is deducted from employee wages as determined by the State of New Jersey Department of Labor and Workforce Development.*

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19. Family Leave Insurance – This mandatory benefit will consist of enrollment in the New Jersey Family Leave Insurance Program commencing at the inception of employment. Employee cost is deducted from employee wages as determined by the State of New Jersey Department of Labor and Workforce Development.

**5.8 Employee Performance Rating.** An Employee Performance Rating System shall be maintained for all employees of the Commission. The main objectives of the performance rating system are as follows:

- To align employee work plans with agency and branch priorities and direction,
- To review progress in attaining review period goals and objectives,
- To recognize exemplary performance and identify opportunities to improve sub-standard performance,
- To provide a forum for employee/supervisor dialogue in a context of continuous improvement of the organization.

Performance rating is a continuous process which involves observation, evaluation, discussion, criticism, assistance, and recognition.

5.8 A. *Rating Period.* Each probationary employee (new or promotional) shall receive a performance rating at the end of each three months during the probationary period. Additional ratings may be requested at the discretion of the Division/Branch Head. Full-Time Temporary employees shall be rated at least four times during the first year of employment. During the year immediately following the probationary year, employees will receive a performance rating for the period running from the end of the probationary period to December 31. Additional performance ratings may be required thereafter at the discretion of the Division/Branch Head. Otherwise, permanent employees shall be rated once each year for the service period commencing January 1 and ending December 31.

5.8 B. *Raters.* The performance rating report shall be completed by the immediate supervisor of each employee and reviewed by the rater's immediate supervisor. The Division Branch Head must review and approve/disapprove all performance ratings of personnel in the Division.

5.8 C. *Review with Employee.* The supervisor shall discuss the rating with the employee in detail. In doing so, the supervisor has the responsibility to indicate ways in which the employee's performance can be improved. An employee who does not agree with the rating shall be entitled to an interview with the reviewing officer and/or follow the grievance procedures contained in these regulations.

5.8 D. Ratings. The Executive Director shall develop a system of performance ratings as identified in the Employee Handbook. An overall unsatisfactory rating or a rating that indicates that job requirements are not being met may result in the actions identified in Section 5.13.

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5.8 E. *Procedures.* The Personnel Officer shall design the standard forms and procedures to govern the administration of the performance rating system. The forms and procedures to be included in the rating system shall be approved by the Executive Director, and may vary depending upon position title or position responsibilities.

**5.9 Employee Training.** Employees receive appropriate training and instruction applicable to their current responsibilities and for advancement to more responsible positions (within budget limitations).

5.9 A. *In-Service Training.* Where applicable, such training shall be conducted during working hours.

5.9 B. *Out-Service Training.* Employees are encouraged to utilize educational institutions, workshops, conferences sponsored by professional societies, and specialized training courses conducted by private and public agencies in promoting their professional development. Consideration shall be given in regard to workshops, conferences and short-term specialized training courses to have all or part of the travel expenses involved absorbed by the Commission. The Executive Director shall determine the eligibility of an employee to receive assistance through provisions of this section. The basic criteria will require that the out-service training is specific to the employee's work, and further, that the desired training is not available through in-service facilities.

If the out-service training occurs during an employee's regular working hours, special leave time with pay may be granted to allow the employee to complete the requirements of the specific out-service training.

**5.10 Other Activities.**

5.10 A. Commission employees may participate in civic and community activities as long as they do not conflict with the employee's duties and responsibilities to the Commission.

5.10 B. *Outside Employment and Affiliations.* Commission employees are permitted to hold other working positions and affiliations only so long as such additional positions or affiliations do not create conflicts of interest in their work for the Commission, and does not reduce the employee's efficiency and effectiveness in performing Commission work.

Within the provisions of this section, it is intended that professional employees of the Commission may accept specific teaching assignments at a recognized college or university. However, if any teaching assignments involve in any way the work day of employees, then this assignment would be subject to the approval of the Executive Director.

Employees will be required to review the Guidelines and Procedures for Preventing Conflicts of Interest in Connection with Outside Activities and complete the Conflict of Interest Questionnaire.

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5.10 C. *Political Activities.*

An officer or employee of the Commission may not:

Be a candidate for nomination or election to public office where political party labels are used, and may not solicit others to become candidates.

Solicit or receive any assessment or contribution for any political purposes (but may make a voluntary contribution to any party or candidate).

**5.11 Grievance Procedure.** Any permanent employee of the Commission, who has a grievance pertaining to employment with the Commission, shall be entitled to a full and fair review of said grievance. The method of resolving grievances shall be as follows:

5.11 A. *Grievances Pertaining to Work Conditions.*

1. The employee shall first discuss the grievance with the immediate supervisor. Resolving grievances at the immediate supervisory level is encouraged. If the first Resolving grievances at the immediate supervisory level is encouraged. If the first Resolving grievances at the immediate supervisory level is encouraged. If the first level is the Executive Director, the Executive Director shall make the adjudication.

2. Grievances not settled at the immediate supervisory level shall then be presented in writing to the appropriate next level supervisor and to the Personnel Officer by the employee, indicating the nature of the grievance and general background of the discussion with the employee's immediate supervisor. The appropriate next level supervisor shall be furnished with a written statement of the problem and the previous discussion by the immediate supervisor. The appropriate next level supervisor and the Personnel Officer then will attempt to resolve the grievance to the satisfaction of all concerned. If the next level supervisor is the Executive Director, the Executive Director shall make the adjudication.

3. If the grievance is not resolved by the next level supervisor, it shall be forwarded to the Deputy Executive Director or Executive Director for further review. In doing so, the next level supervisor will attach a summary of actions taken in regard to the initial grievance.

4. The Deputy Executive Director and Executive Director, upon receiving the grievance from the next level supervisor, shall then make the adjudication.

~~6.5.~~ The Personnel Officer shall be advised of all grievances not settled at the immediate supervisory level and shall be a party to the discussions as the grievance proceeds to the various levels.

~~6.5.~~ The Personnel Officer shall be advised of all grievances not settled at the ~~first~~ immediate supervisory level and shall be a party to the discussions as the grievance proceeds to the various levels.

5.11 B. *Grievances Pertaining to Discrimination.*

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1. *Pre-Complaint Processing.*

An employee having a grievance relating to discrimination of any kind shall contact the Personnel Officer within 30 calendar days of the alleged discriminatory event. If the complaint arises in the Administrative Division, the Deputy Executive Director shall be contacted rather than the Personnel Officer. The following procedures will be followed:

The Personnel Officer shall attempt to resolve the complaint informally within 21 days after having been contacted by the employee. If the Personnel Officer is unable to resolve the complaint, the employee shall be so notified in writing and shall be provided with a copy of these regulations.

If the complaint is not satisfactorily resolved within the 21-day period, the employee may submit the complaint in writing to the Personnel Officer. Such written complaint shall be submitted within 15 days following conclusion of the Personnel Officer's attempt to resolve the complaint informally.

2. *Complaint Processing.*

Upon receiving a written complaint of alleged discriminatory action, the Personnel Officer shall assign a person to investigate the complaint. The investigator so assigned shall be from an organizational unit of the Commission other than the one from within which the complaint arose.

The investigator shall inquire into the facts of the complaint and shall submit a written report of findings but without recommendations. Copies of the investigator's report shall be made available to the employee and the Personnel Officer. The Personnel Officer shall attempt to resolve the complaint informally on the basis of the investigator's report.

If the complaint remains unresolved, the Personnel Officer shall recommend a decision to the Executive Director and shall notify the employee of said recommendation. The employee shall have the right to a hearing before the Executive Director based upon the Personnel Officer's recommended disposition of the complaint.

The Executive Director shall make an agency decision on the complaint after receiving the recommendations of the Personnel Officer, reviewing all relevant documents pertaining to the complaint, and holding a hearing for the employee, if so requested. A copy of the Executive Director's decision shall be made available to the employee. The employee may appeal the Executive Director's decision to the Commission within 15 days of its receipt, or may file a civil action in an appropriate U.S. District Court within 30 days.

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5.11 C. *Appeals Procedure.*

If the employee appeals to the Commission, the Commission shall arrange for the appointment of a complaint examiner who shall not be an employee of the Commission.

The complaint examiner shall review the case in its entirety and may require additional investigation by the Commission, and/or hold one or more hearings on the complaint. A written report of findings and recommendations (hearings recorded and transcribed verbatim) shall be submitted by the complaint examiner to the Commission.

The Commission shall make a decision which shall be final. The Commission decision shall include an explanation of the reasons for any rejection or modification of any of the complaint examiner's recommendations. The employee shall be given a copy of the Commission decision and the complaint examiner's report.

5.11 D. *Complainant Employee Rights.*

The employee shall have the right to file civil action in an appropriate U.S. District Court:

- within 30 calendar days of receipt of an agency decision by the Executive Director, or
- after 180 calendar days from the date of filing a complaint if no agency decision has been made by the Executive Director, or
- within 30 days of receipt of notice of final action taken by the Commission on the complaint, or
- after 180 calendar days from the date of filing an appeal with the Commission if a final action has not been taken by the Commission,
- The filing of a civil action by the employee shall not terminate processing of a complaint by the Commission under these regulations.

**5.12 Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace.**

5.12 A. *Policy.*

The Delaware River Basin Commission is committed to providing every employee with a workplace free from unlawful discrimination. All forms of unlawful employment discrimination based upon race, creed, color, national origin, ancestry, age, sex, marital status, familial status, gender, gender identity, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability are prohibited and will not be tolerated. Sexual harassment is a form of unlawful gender, gender identity discrimination and, likewise, will not be tolerated.

Unlawful discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. This policy applies to all employees. The Commission will not tolerate harassment or discrimination by anyone in the workplace including supervisors, co-workers, or non-employees. This policy applies to conduct which occurs in the workplace and also extends to conduct which occurs at any location that can be reasonably regarded as an extension of the workplace, such as any field location, any off-site business-

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related social function, or any facility which Commission business is being conducted and discussed.

This policy also applies to third party harassment. Third-party harassment is unwelcome behavior of a sexual, racial or derogatory nature, that is not directed at an individual but is a part of that individual's work environment, and such third-party harassment is prohibited by this policy.

This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, compensation, fringe benefits, working conditions and career development.

5.12 B. *Prohibited Discrimination or Harassment.*

It is a violation of this policy to engage in any employment practice or procedure which treats an employee less favorably based upon a person's race, gender, gender identity, national origin or ancestry, religion, age, disability, affectional or sexual orientation, marital status, familial status, atypical hereditary cellular or blood trait, genetic information, or liability for service in the Armed Forces of the United States. It is also a violation of this policy to use derogatory or demeaning slurs to refer to a person's race, gender, gender identity, age, religion, disability, affectional or sexual orientation, or ethnic background which have the effect of harassing an employee or creating a hostile work environment. Harassment or the creation of a hostile work environment can occur even if there was no intention on the part of an individual to harass or demean another.

5.12 C. *Examples of Behaviors that May Constitute Prohibited Workplace Discrimination or Harassment Include, but are Not Limited to:*

1. Discriminating against an individual with regard to terms and conditions of employment because of that individual's race, gender, gender identity, age, religion, disability, affectional or sexual orientation, place of origin, or the individual's ancestral origin.
2. Treating an individual differently because of race, gender, gender identity, age, religion, disability, affectional or sexual orientation, place of origin, or ancestry, or because an individual has the physical, cultural or linguistic characteristics of a racial or national origin group.
3. Treating an individual differently because of marriage to or association with persons of a racial, religious or national origin group; or due to membership in or association with an organization identified with the interests of a racial, religious or national origin group; or because an individual's name or spouse's name is associated with a racial, religious or national origin group.
4. Calling another by an unwanted nickname which refers to one or more of the above characteristics, or telling ethnic jokes which harass an employee or create a hostile work environment.
5. Using derogatory references regarding any of the above characteristics in any job-related communication.
6. Engaging in threatening, intimidating, or hostile acts, in the workplace, based on the foregoing classifications.

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7. Displaying or distributing material in the workplace that contains language or images that are derogatory or demeaning, based upon any of the foregoing classifications.

5.12 D. *Sexual Harassment.*

1. It is a violation of this policy to engage in sexual harassment of any kind. For the purposes of this policy, sexual harassment, with or without sexual conduct, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:
  - a. submission to such conduct is made either explicitly or implicitly a term or condition for an individual's employment;
  - b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
2. Sexual harassment generally falls into two categories:
  - a. *Quid Pro Quo Sexual Harassment* is a form of harassment that may include unwelcome sexual advances for sexual favors or other verbal or physical conduct based on the gender, gender identity of the affected employee when:
    - (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment;
    - (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions.

It shall be a violation of this policy for any person to use the person's authority to make any sexual advance toward an individual over whom the person is authorized to make, recommend or otherwise to influence personnel actions; to grant, recommend, or refuse to take personnel action on the basis of an employee's gender, gender identity or sexual orientation or in exchange for sexual favors; or to take or fail to take a personnel action as reprisal against any employee for rejecting or reporting a sexual advance. Sexual advances or requests for sexual favors can be in the form of either expressed or implied comments, writings, or actions.

- b. *Hostile Work Environment Sexual Harassment* is a form of harassment that may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Gender- and gender identity-based harassment may give rise to a claim of a hostile environment whether or not sexual activity or language is involved, if it has the purpose or effect of abusing, devaluing or subordinating the members of one sex and it adversely affects an individual's employment opportunities.

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- c. *Third-party harassment* is unwelcome behavior of a sexual nature or based on sex that is not directed at an individual but is a part of an individual's work environment.

5.12 E. Examples of prohibited behaviors that may constitute sexual harassment include but are not limited to:

1. Generalized gender- **and gender identity**-based remarks and comments.
2. Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement.
3. Verbal or written sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, invitations, gestures or inappropriate comments about a person's clothing.
4. Visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals.
5. Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention.
6. Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluations or promotional opportunity.
7. Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

5.12 F. *Employee Responsibilities.*

Any employee who believes that **they have** been subjected to any form of prohibited discrimination/ harassment, including sexual harassment, or who witnesses others being subjected to such harassment or discrimination is encouraged to promptly report the incident(s) to **their** manager or directly to either the **Personnel** Officer or **the** Commission Secretary. All employees are expected to cooperate with investigations undertaken pursuant to this policy. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination.

5.12 G. *Supervisor Responsibilities.*

Managers should make every effort to maintain a work environment that is free from any form of discrimination/harassment. Managers are expected to take all allegations of discrimination/harassment, including sexual harassment, seriously, and to immediately refer the matter to the individual(s) responsible for receiving such complaints. All complaints will be reviewed and prompt and appropriate remedial action will be taken to address any substantiated claim. Managers receiving complaints of unlawful discrimination/harassment must immediately advise the **Personnel** Officer of the complaint.

5.12 H. *Complaints.*

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All investigations of discrimination/harassment claims will be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations will be conducted in a prompt, thorough and impartial manner. The results of the investigation will be forwarded to the respective agency head to make a final decision as to whether a violation of the policy has been substantiated.

Where discrimination/harassment is found to have occurred, the Commission will take prompt and appropriate remedial action to stop the discrimination/harassment and deter its reoccurrence. The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment.

The Commission shall maintain a written record of the discrimination/harassment complaints received. Written records will be maintained as confidential records to the extent practicable and appropriate.

5.12 I. *Prohibition against Retaliation.*

Retaliation against any employee who alleges that they were the victim of discrimination/ harassment or against any employee who provides information in the course of any investigation into claims of unlawful discrimination/harassment in the workplace is prohibited by this policy. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy will not be subjected to adverse employment consequences based upon such involvement or be the subject of retaliation.

5.12 J. *False Accusations and Information.*

If any employee knowingly makes a false accusation of unlawful discrimination/ harassment or knowingly provides false information in the course of any investigation of a complaint, such conduct may be grounds for discipline. Complaints made in good faith, however, even if found to be unsubstantiated, will not be considered a false accusation.

5.12 K. *Confidentiality.*

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality will be maintained throughout the investigatory process. In the course of an investigation it may be necessary to discuss the claims with the alleged harasser and other persons who may have relevant knowledge. It therefore may be necessary to disclose information to persons with a legitimate need to know about the matter. All persons interviewed will be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in disciplinary action.

5.12 L. *Training.*

The Commission shall provide employees with training concerning this policy.

**5.13 Disciplinary Action.**

5.13 A. *Disciplinary Action.* Any employee found to have violated this policy may be subject to appropriate disciplinary action which may include: reprimand, suspension, reassignment, or termination of employment. Disciplinary action shall be taken in accordance with



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Section 5-12 of the Administrative Manual. Referral to another authority for review for possible violation of State and Federal statutes may also be appropriate.

1. Forms of Disciplinary Actions:

- a. *Oral Reprimand.* The discussion a supervisor has with an employee relating to job performance or employee behavior.
- b. *Written Reprimand.* A written record of a rebuke, usually after previous oral reprimand.
- c. *Suspension with Pay.* Ordered absence from duty while on full pay status.
- d. *Suspension without Pay.* Ordered absence from duty without pay.
- e. *Demotion.* The movement of an employee from present grade to a lower grade.
- f. *Dismissal.* Removal from employment with the Commission.

5.13 B. *Causes for Disciplinary Action.*

1. Unsatisfactory performance of duties and responsibilities of the job assigned.
2. Misconduct.
3. Insubordination.
4. Failure to comply with the policy prohibiting discrimination, harassment or hostile environments in the workplace.
5. Abuse of Sick Leave privileges.
6. Abandonment of employment.
7. Tardiness.
8. Failure to comply with the Policy Governing Electronic Resources Use, Access and Communications.
9. Failure to comply with the policies set forth in Chapter 9 relating to the employee's use of a Purchase Card (P-Card).

5.13 C. *Disciplinary Procedures.*

1. When a reprimand is warranted but stronger disciplinary action is not required, the supervisor shall follow either of the following procedures:
  - a. The supervisor delivers an oral reprimand to the employee. No written record is placed in the employee's personnel file.
  - b. The supervisor places a written reprimand in the employee's personnel file. The employee must be given a copy of the reprimand and has 15 working days to comment and reply to it in writing to the Personnel Officer. The employee's reply will be made part of the employee's personnel file.

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2. When a supervisor feels that stronger disciplinary action is warranted, the following procedures will be followed:
  - a. The supervisor will prepare written charges and deliver a copy to the employee within five (5) working days of the incident that provoked the charge. Copies will also be provided to the supervisor's immediate supervisor and the Personnel Officer (a copy goes into employee's record).
  - b. The employee will have 15 working days to respond to the charges in writing. Copies will be given to the Personnel Officer, the employee's supervisor, and the next level supervisor (a copy is made part of the employee's record).
  - c. Within five (5) working days of receipt of the employee's response to the charges, the Personnel Officer will conduct a "meet and discuss" session with the employee and supervisor. If the Personnel Officer is able to resolve the problem the Executive Director will be so notified. The Personnel Officer's recommended solution to the problem is subject to approval by the Executive Director. Official action stops upon approval by the Executive Director. The solution is implemented and a copy goes into the employee's record.
  - d. If the problem is not resolved, the Personnel Officer will send a notice of impasse to the Executive Director. The Executive Director shall schedule a formal hearing within ten (10) working days of receiving the notice of impasse.
3. *Formal Hearing.*
  - a. All persons concerned with the case shall be heard.
  - b. The employee may have counsel (at employee's expense).
  - c. Each party concerned may have witnesses on their behalf.
4. *Findings.*

The Executive Director shall issue a report of findings and shall determine the disciplinary action (if any) to be taken.

#### **5.14 Termination of Employment.**

- 5.14 A. *Resignation.* In order to resign in good standing, an employee shall give the Commission at least ten (10) working days' notice in writing.
- 5.14 B. *Removal for Cause.* Termination of employment for unsatisfactory performance, misconduct in office, insubordination, abuse of Sick Leave privileges, abandonment of employment or excessive tardiness.
- 5.14 C. *Reduction in Force.*
  1. The Executive Director may, in accordance with Section 3.2 of this Manual, institute changes in the internal staff organization of Commission as required to adapt to changes in the annual current expense budget. The Executive Director may, as necessary, create or abolish staff positions in order to most efficiently carry out programs authorized by the Commission.

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2. An employee whose position is abolished and who has bumping rights will, where possible, be reassigned by the Executive Director to another position within the revised table of organization, if the Executive Director shall determine that the employee is qualified by education and experience for the reassignment. If no reassignment is possible, the employee so affected will be so notified by the Executive Director.
3. An employee “bumped” by reason of another employee being reassigned and who has secondary bumping rights may also be reassigned by the Executive Director to another position based upon the Executive Director’s determination that the employee is qualified by education and experience for the reassignment. If no reassignment is possible, the employee so affected will be so notified by the Executive Director.
4. An employee occupying a position that is abolished or an employee who is bumped shall receive at least 20 working days’ advance notice of termination.
5. If an employee who has bumping rights is notified of termination, within ten (10) working days such employee must notify the Personnel Officer of any desire to exercise bumping rights and identify the position involved.
6. An employee does not have the right to bump or be reassigned to a position at a higher grade level.
6. An employee does not have the right to bump or be reassigned to a position at a higher grade level.
7. Only employees hired before January 1, 2022 shall have primary or secondary bumping rights. Employees hired after that date shall not be entitled to bumping rights. As of January 1, 2032, any presently existing entitlement to primary bumping rights or secondary bumping rights upon a reduction in force under this Section 5.14.C shall cease, regardless of an employee’s date of hire, and paragraphs 2 – 6 of this Section 5.14.C shall be of no further force or effect.
8. The salary and grade level of an employee who is reassigned shall be the same as that currently budgeted for the new position, except that the reassignee’s new salary may not exceed the reassignee’s salary immediately prior to reassignment.

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5.14 D. *Retirement.* Employee retirements are subject to the Rules and Regulations of the Public Employees’ Retirement System of the State of New Jersey.

5.14 E. The Personnel Officer will conduct exit interviews to all employees prior to termination.

**5.15 Re-employment Eligibility.** An employee terminated by reason of reduction in force shall be eligible for re-employment based upon availability of funds and the needs of the Commission as determined by the Executive Director. This right shall expire one (1) year after termination.

**5.16 Applicability.** The provisions of this Chapter shall not be applicable to members of the Commission, alternates and advisors, the Executive Director or General Counsel (Resolution No. 80-4).

## CHAPTER 6

### TRAVEL REGULATIONS

**Section 6.1 General.** These regulations are intended to cover most travel requirements which may arise in the normal operation of Commission activities. Should circumstances arise that are not covered by these regulations, the employee shall notify the Commission's ~~chief financial officer (at the time of rule adoption, the Director of Finance and Administration)~~, who will provide the employee with written instructions for the proper handling of travel costs under the special circumstances motivating the request. All questions relating to the interpretation of these regulations will be submitted to the ~~chief financial officer~~ Director of Finance and Administration for determination. Should the employee disagree with the determination of the ~~chief financial officer, he or she~~ Director of Finance and Administration, the employee shall have the right to appeal to the Executive Director.

*Official Station.* The official station of all Commission employees shall be the Commission's West Trenton, New Jersey headquarters building unless otherwise designated by the Executive Director. No travel costs between the employee's residence and the official station shall be reimbursable except as provided in Section 6.7 of this Manual.

#### 6.2 Travel Authorization.

##### 6.2 A. Advance Approval Required.

1. *Within Basin.* All travel within the borders of Basin states and to Washington, D.C. shall be considered Within Basin Travel. Travel within the Basin to conduct Commission business requires advance verbal approval by the traveler's supervisor.
2. *Outside Basin.* All other travel to conduct Commission business shall be considered Out-of-Basin Travel and shall require advance written authorization by the Executive Director.
3. *Conventions and Multi-day Conferences.* All convention and multi-day conference expenditures must be authorized in advance by the Executive Director.

6.2 B. *Emergencies.* Whenever travel has been undertaken without advance approval due to an emergency, the request for approval must be submitted immediately after the trip and prior to the submission of a request for reimbursement. In such cases, the request must contain a satisfactory statement of the facts constituting the emergency.

**6.3 Vehicles.** Official travel shall be in Commission-owned vehicles where possible. When it is in the best interest of the Commission, travel by other means may be authorized.

##### 6.3 A. Use of Commission-owned Vehicles.

1. *Eligible Drivers.* Commission-owned vehicles shall be operated only by authorized Commission officials and employees possessing a valid driver's license.
2. *Fines.* Fines for traffic violations, including overtime parking, are not reimbursable and shall be paid by the operator of the vehicle responsible for the violation.
3. *Fuel, Supplies.* Insofar as possible, the purchase of all fuel and oil shall be handled through P-cards issued in accordance with Chapter 9 hereof or credit cards furnished

for this purpose. Except in emergencies, all other vehicle supplies and parts should be procured through the Commission.

4. *Emergency Purchases.* When emergency purchases are necessary, the employee should obtain the best quality at the lowest possible price under the circumstances. In such instances, the employee's reimbursement request shall be accompanied by an explanation as to the necessity for the purchases.

Where possible, such expenses may be charged with a P-card or Commission-issued credit card.

5. *Parking, Tolls.* Where travel is by use of Commission-owned vehicles, reasonable parking fees and toll expenses will be allowed.
6. *Non-business Hours.* Where a Commission-owned vehicle is to be used at times other than normal work-day hours, verbal approval shall be obtained from the Executive Director or the Executive Director's designee. Cars may be taken home by authorized employees who are starting a non-local trip the following morning or who are returning from such trip after the normal work day.
7. *Vehicles Not in Use.* When staff cars are not in use, they will be kept in the parking lot of the Commission's West Trenton headquarters building.
8. *No smoking.* Except as otherwise authorized by the Commission, smoking within vehicles owned by the Commission is prohibited.

- 6.3 B. *Employee-owned Vehicle.* When the use of a privately-owned vehicle has been approved in advance, the officer or employee may be reimbursed for actual transportation expenses (including fuel, insurance and wear-and-tear) based on mileage, as well as for reasonable parking expenses and tolls.

To be eligible for reimbursement for the use of a privately-owned vehicle for Commission business, an employee must, upon request, provide the Director of Finance and Administration with evidence that the employee has up-to-date liability insurance with minimum coverages of \$25/50,000 for personal injury liabilities and \$10,000 for property damage.

When an employee uses a personal vehicle for Commission business, the employee will be reimbursed for mileage at the rate established annually by the Internal Revenue Service.

- 6.3 C. *Air Travel.* Transportation by scheduled airlines may be authorized when cost or time considerations justify such travel. Class of travel will be "coach" or equivalent.
- 6.3 D. *Rail.* Transportation by rail may be authorized when cost or time considerations justify such travel.
- 6.3 E. *Taxicabs, Ride Services.* Taxicab or ride service charges will be permitted when justified.
- 6.3 F. *Travel Route.* All travel shall be by the most direct, economical, and usually-traveled route. Travel by other routes may be allowed when need is demonstrated in advance of such travel.

In case a person travels by an indirect route or uses a more expensive mode of travel for personal convenience, the extra expense will be borne by the individual, and

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reimbursement for expenses will be based only on such charges as would have been incurred by the most direct, economical and usually traveled route.

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**6.4 Lodging.** Reimbursement for lodging expense shall be limited to the actual expenses incurred subject to maximum rates set by the Executive Director. The Executive Director may approve rates in excess of these maximums, if warranted.

**6.5 Meals.** Reimbursement or Commission payment for meal expenses shall be limited to the actual expenses incurred, including tips and gratuities, and shall be subject to maximum rates set by the Executive Director. The Executive Director may approve rates in excess of established maximums, if warranted.

6.5 A. *Meals Eligible for Commission Payment or Reimbursement*

1. *Limited Travel.* Travel that does not require an overnight stay shall be considered limited travel.

*Lunch.* When conducting official Commission business spanning the lunch hour. Routine lunches among Commission employees are not considered official Commission business.

*Dinner.* When the employee is required to end travel after 8:00 p.m.

2. *Extended Travel.* Travel that requires an overnight stay shall be considered extended travel. Meal reimbursement or Commission payment will be authorized for all meals normally falling within the travel period.

6.5 B. *Non-eligible Meal Expenses.* Alcoholic beverages are never eligible for reimbursement. "Break" drinks (coffees, sodas, iced teas, etc.) are ineligible for reimbursement except as part of eligible meals or as may be needed for field work hydration and safety.

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**6.6 Other Travel Expenses.**

6.6 A. *Communication Expenses.* Reimbursement will be limited to the actual expenses incurred for the conduct of official Commission business.

6.6 B. *Miscellaneous Expenses.* Charges for necessary services for the conduct of Commission business will be eligible for reimbursement.

6.6 C. *Travel Incident to Recall or Return from Leave Status.* When an employee who is absent from the official station on leave of absence is ordered by the Executive Director to return to work, the employee is entitled to be reimbursed for all costs caused by the recall.

**6.7 Overtime Expenses.** Commission employees who are required to work overtime shall be entitled to the following:

6.7 A. *Regular Work Day.* When an employee works overtime on a regular work day and the overtime work causes the employee to arrive home after 8:00 p.m., the employee shall be entitled to reimbursement for dinner expenses as indicated in Section 6.5 of this chapter.

6.7 B. *Other than Regular Work Day.* When an employee works overtime on other than a regular work day, the employee shall be entitled to be reimbursed for travel expenses to and from

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work as indicated in Section 6.3 of this chapter. The employee shall be entitled to meal allowances as indicated in Section 6.5 of this chapter under the following circumstances:

*Lunch.* If the overtime extends beyond the noon hour.

*Dinner.* If the overtime causes the employee to arrive home after 8:00 p.m.

- 6.8 Expense Report.** All claims for Commission payment or reimbursement of expenses shall be submitted on a properly completed expense report. Appropriate supporting data and receipts will be required for all individual items. Where receipts are not available, a full explanation of the nature of the expenditure should be included with the expense report. Expense reports shall be submitted on a monthly basis. Expense reports shall be approved by each employee's direct supervisor or upper level supervisor.

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## CHAPTER 7 GENERAL PROVISIONS

**Section 7.1 Prescribed Time Period.** Whenever an act or procedure is required by the Manual to be taken or followed within a prescribed time, such time shall be deemed to be directory and not mandatory until the Commission shall otherwise prescribe.

**7.2 Role of General Counsel.** The General Counsel to the Commission, upon request, shall advise and/or consult with the Executive Director on any matter covered by these regulations.

**7.3 Suspension of Rules.** Any or all of the personnel provisions may be suspended in whole or in part for just cause. Suspension of rules shall be applicable only upon action of the Executive Director with the approval of the Commission ~~Chairman~~Chair.

**7.4 Effective Date.** This Manual shall take effect immediately upon its adoption.



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## CHAPTER 8

### ELECTRONIC RESOURCES USE, ACCESS AND COMMUNICATIONS

**Section 8.1 General.** The rules outlined in this chapter apply to all Commission-issued electronic devices and systems, including personal computers, laptops, handheld devices, smartphones, telephones, and voicemail and facsimile machines or services. These provisions also apply to employee use of the Internet and email for Commission business using Commission-owned and non-Commission owned resources and services. In addition, Commission employees are required to adhere to the standards established by the State of New Jersey with respect to electronic mail messaging systems and Internet access. Those standards, including any amendments to them that the State of New Jersey may approve, are incorporated by reference in these regulations. The Commission’s Systems Manager will provide staff with links to these and other applicable state policies and inform Commission employees of any modifications made to them as the occasion arises.

**8.2 Permitted Use.** Commission-issued electronic resources are the property of the Commission and are to be used for legitimate business purposes. Employees are provided with access to these resources to assist them in the performance of their jobs. All employees have a responsibility to use these electronic resources and the Internet in a professional, lawful, and ethical manner.

Brief and occasional personal use of the electronic mail system or the Internet is acceptable as long as it is not excessive or inappropriate, occurs during personal time (lunch or other breaks), and does not result in expense or harm to the Commission or otherwise violate this policy. Use is defined as "excessive" if it interferes with: normal job functions; time dedicated to work activities; responsiveness; or the ability to perform daily job activities.

**8.3 Prohibited Uses.** Electronic communication should not be used to: solicit or sell products or services that are unrelated to the Commission’s business; distract, intimidate, or harass coworkers or third parties; or disrupt the workplace.

Use of Commission computers, networks, and Internet access is a privilege granted by management and may be revoked at any time for inappropriate conduct carried out on such systems, including, but not limited to:

- Sending chain letters or participating in any way in the creation or transmission of unsolicited commercial e-mail ("SPAM") that is unrelated to legitimate Commission purposes;
- Engaging in private or personal business activities, including excessive use of instant messaging and chat rooms; during working hours.
- Accessing networks, servers, drives, folders or files to which the employee has not been granted access by someone with the authority to allow it;
- Making unauthorized copies of Commission files or other Commission data that are not public records;
- Destroying, deleting, erasing, or concealing Commission files or other Commission data, or otherwise making such files or data unavailable or inaccessible to the Commission or to other authorized users of Commission systems;

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- Misrepresenting oneself or the Commission;
- Violating the laws and regulations of the United States or any other nation or any state, city, province, or other local jurisdiction in any way;
- Engaging in unlawful or malicious activities;
- Deliberately propagating any virus, worm, Trojan horse, trap-door program code, or other code or file designed to disrupt, disable, impair, or otherwise harm either the Commission's networks or systems or those of any other individual or entity;
- Using abusive, profane, threatening, racist, sexist, or otherwise objectionable language in either public or private messages;
- Sending, receiving, or accessing pornographic materials;
- Operating "office pools" or gambling events;
- Causing congestion, disruption, disablement, alteration, or impairment of Commission networks or systems;
- Maintaining, organizing, or participating in non-work-related Web logs ("blogs") or Web journals;
- Failing to log off any secure, controlled-access computer or other form of electronic data system to which you are assigned, if you leave such computer or system unattended overnight, on weekends or during periods of leave;
- Defeating or attempting to defeat security restrictions on Commission systems and applications.

Using Commission electronic systems to access, create, view, transmit, or receive racist, sexist, threatening, or otherwise objectionable or illegal material, defined as any visual, textual, or auditory entity, file, or data, are strictly prohibited. Such material violates the Commission's policies and subjects the responsible employee to disciplinary action up to and including dismissal. The Commission will comply with reasonable requests from law enforcement and regulatory agencies for logs, diaries, archives, or files on individual Internet activities, e-mail use, and/or computer use.

Unless specifically granted in this policy, any non-business use of the Commission's electronic systems is expressly forbidden.

Employees are discouraged from using personal email accounts for the conduct of Commission business and/or activities.

8.3 A. *Illegal Copying.* Employees may not illegally copy material protected under copyright law or make that material available to others for copying. Employees are responsible for complying with copyright law and applicable licenses that may apply to software, files, graphics, documents, messages, and other material they wish to download or copy. Employees may not agree to a license or download any material for which a registration fee is charged without first obtaining the permission of a branch manager or the executive director.

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8.3 B. *Communication of Proprietary Information.* Unless expressly authorized to do so, employees are prohibited from sending, transmitting, or otherwise distributing proprietary information, data, trade secrets, or other confidential information belonging to the Commission or others.

8.3 C. *Accessing the Commission Network/Internet.* Employees, while at the Commission office, shall use only Commission approved devices to access the Commission network. Employees may access the internet either through approved devices or approved “guest” access.

To prevent computer viruses from being transmitted through the Network there will be no downloading of any software applications or files that are not directly related to Commission business.

8.3 D. *Virus Detection.* Employees shall not download program files from the Internet or use external devices such as jump drives or external hard drives from non-Commission sources, without first scanning the material with Commission-approved virus checking software and/or checking with the System Manager. If employees suspect that a virus has been introduced into the Commission network, they shall immediately notify the Systems Manager.

**8.4 Ownership.** Any and all information created, transmitted or stored using any Commission owned or operated equipment, system or service becomes the property of the Commission. As such, no individual has any rights of ownership in such information. The sole exception to this principle is software or other intellectual property that is licensed from third parties for the purpose of facilitating the conduct of Commission business.

**8.5 Control.** In certain circumstances, authorized Commission personnel may be required to take direct possession of computers and other related equipment as part of an investigation. Users of Commission electronic communication services and equipment implicitly consent to relinquish possession of such equipment upon any properly authorized and authenticated request.

**8.6 Privacy Limitations.** Employees should have no expectation of privacy in anything they create, store, send, or receive using the Commission’s electronic resources. The Commission reserves the right to access or monitor the use of any and all equipment, communication or content on Commission equipment, including content or messages sent via email accounts. Management and other authorized staff have the right to access any such content or messages at any time. Email and other electronic content is not private if it is created, transmitted, or stored using the Commission’s electronic resources.

The Commission reserves and intends to exercise the right to review, audit, intercept, access, and disclose all messages created, received, or sent utilizing the Commission’s electronic resources for any purpose. The contents of electronic communications may be disclosed within the Commission or, as appropriate, outside the Commission, without the permission of the employee. Even when a message is erased or deleted, it is still possible to retrieve and read that message. Furthermore, the use of passwords for security does not guarantee confidentiality.

The Commission reserves the right to monitor and log any and all aspects of its computer network, including all employee use thereof. The Commission has the right to utilize software that makes it possible to identify and block access to Internet sites containing sexually explicit or other material deemed inappropriate in the workplace.

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Certain Commission-owned electronic resources are equipped with electronic tracking software that can be accessed by authorized Commission staff to determine the location of or de-activate that equipment as outlined below. In addition, Commission-owned electronic resources may be equipped with an application that has the ability to monitor and record activity on such devices at any time. The Commission also has the ability to perform behind-the-scenes management of electronic devices.

Authorized Commission staff will utilize these capabilities in limited circumstances, which may include but are not limited to the following:

- The device is reported as lost or stolen to the Systems Manager.
- There is a legitimate concern for an employee's safety or well-being as a result of authorized Commission staff's inability to contact them or an unexplained absence on a scheduled work day.
- There is reason to believe the equipment is being used improperly as outlined in the policies contained in this chapter.

**8.7 Voicemail.** Employees shall use the Commission's voicemail system in a responsible manner to facilitate communication with other employees and the general public.

**8.8 Use of Cell Phones for Commission Business.** For activities in Commission vehicles or related to Commission business, the Commission:

- Discourages the use of all electronic devices while driving
- Prohibits texting and/or dialing while driving
- Requires that a hands-free device be utilized while taking or making business-related calls while driving.

Whether employees are issued a Commission-owned smartphone or are using a personal cell phone/smartphone for Commission business they must:

- Observe all applicable traffic laws, ordinances, etc.
- Use a hands-free device whenever taking/making Commission business-related calls while driving
- Not read or transmit text messages or emails while driving.

While working at the office or attending a meeting or event on Commission business, employees are required to:

- Limit the amount of time spent on personal calls, text messages, and/or emails and the number of such communications during working hours
- At no time at work or in the workplace, use the device to send messages, photos, videos, etc. that is inappropriate, distasteful, or obscene, such that disciplinary actions would be warranted under Section 5.12 and 5.13 of this manual.

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**8.9 Social Media and Internet Postings.** These rules apply to employees who participate in or use multimedia and social networking sites, blogs, wikis, or any other Internet site where text, photos, videos, audio files, or other content can be posted using any and all computers or devices.

Employees must ensure that their personal use of social media does not create the appearance that they are acting in an official capacity or that the Commission endorses or sanctions their personal activities. When posting their point of view, employees must neither claim nor imply that they are speaking on the Commission's behalf. If there is any potential for confusion, an appropriate disclaimer must be provided.

When speaking about the Commission on any website, multimedia site, social networking site (e.g., Facebook or Twitter), blog, or other site where text, photos, videos, audio, or other content may be posted, employees shall clearly identify themselves as employees of the Commission and include a disclaimer that the views expressed are the employee's own views and not those of the Commission.

Without clear prior authorization, use of the Commission logo, Commission seal, or any copyrighted Commission material, is prohibited. Posting of any Commission non-public, confidential, or proprietary information is similarly prohibited without clear Commission authorization.

Employees are legally responsible for the content of their postings and may be personally liable if they post confidential or copyrighted information belonging to third parties. Postings must respect copyright, privacy, fair use, financial disclosure, and other applicable laws.

Even with a disclaimer, inappropriate messages may violate Commission policy. In particular, postings must be consistent with Section 5.12, prohibiting discrimination, harassment or hostile environments in the workplace. Any posting regarding the Commission, Commission members and alternates, advisors, employees, project sponsors, consultants, member jurisdictions, or members of the public is expected to be respectful and appropriate. Employees shall not discriminate in postings against or harass other employees, project sponsors, consultants, or others for any reason, including by virtue of an individual's race, color, sex, sexual orientation, religion, national origin, age, veteran status, political affiliation, disability, or any other trait or characteristic protected by law.

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## CHAPTER 9

### PURCHASING CARD

**Section 9.1 General.** The rules outlined in this chapter provide for the use of Commission-issued purchase cards (“P-cards”) for most purchases made in the course of normal Commission operations. Should needs arise for which the procedures described in this chapter are unsuited or inadequate, the employee shall notify the Commission’s ~~chief financial officer (at the time of adoption of this Chapter 9,~~ the Director of Finance and Administration), who will provide written purchasing instructions tailored to the circumstances.

**9.2 Permitted Uses.** Permitted uses include all Commission-related expenses consistent with approved budgets, individual purchase limits and other Commission policies. Examples of permitted uses are listed below; however, this list is not exhaustive.

<i>Allowable Use</i>	<i>Examples</i>
<i>Routine office expenses, including services</i>	<i>Office supplies Pest control Trash / waste removal Janitorial services Advertising</i>
<i>Other services</i>	<i>Licenses / permits Facility maintenance (snow removal, grass cutting) Subscriptions Membership fees Training and seminars Laboratory services</i>
<i>Travel expenses</i>	<i>Airfare Ground transportation (incl. rental car) Lodging Meals Fuel</i>

**9.3 Prohibited Uses.** P-cards should not be used for personal or non-Commission expenses. If the P-Card is used inadvertently for personal expenses, the ~~financial officer~~ Director of Finance and Administration should be notified promptly upon discovery of the use, and prompt reimbursement made in accordance with section 9.5D.3. If the P-card is used purposefully or repeatedly for personal expenses, the employee will be subject to disciplinary action, up to and including termination. Examples of prohibited uses are listed below. The list is not exhaustive. If an employee is uncertain of whether a particular use of the P-card is appropriate, the employee is directed to ask ~~his or her~~ the employee’s supervisor or the ~~chief financial officer~~ Director of Finance and Administration for guidance.



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<b>Prohibited Use</b>	<b>Examples</b>
<i>Personal expenses</i>	<i>Travel expenses for family members In-room movies Salon services Souvenirs Airline or hotel clubs Daily commute expenses Tobacco Alcoholic beverages Tickets for traffic violations Other fines/penalties.</i>
<i>The following services are not to be procured using the P-card:</i>	<i>Cash Advances Any form of personal identification Donations</i>

#### 9.4 P-Card Issuance.

- 9.4 A. *P-card Administrator.* The Executive Director shall designate as the P-card Administrator the Commission’s ~~chief financial officer~~Director of Finance and Administration or other financial manager.
- 9.4 B. *Employee Request.* The procedure for P-card issuance shall be as follows:
1. Any employee may request a P-card by submitting a request to the P-card Administrator in such form as the P-card Administrator may prescribe, and to the employee’s supervisor. The approval of both the employee’s supervisor and the P-card Administrator shall be required prior to issuance of the P-card.
  2. The P-card Administrator or ~~his or her~~the P-card Administrator’s designee will create the cardholder profile and establish the P-card limit with the issuing bank ~~(see sample portal screen provided as Figure 9.4 1).~~
  3. The employee shall agree to the terms of issuance by signing an “agreement to accept” letter or equivalent ~~(sample provided as Figure 9.4 2).~~
  4. Upon furnishing a copy of the signed “agreement to accept” letter (or equivalent) to the P-card Administrator for DRBC files, the employee may be issued the P-card.
- 9.4 C. *Review.* The P-card Administrator shall review each request form for completeness and accuracy. If any fields are not complete, the P-Card Administrator shall return the form to the requester’s supervisor for completion and re-submission to the ~~P-card~~ Administrator.
- 9.4 D. *P-card Replacement.* P-cardholders are to report lost or stolen cards to the issuing bank and the P-card Administrator promptly when the loss is discovered. The missing card will be cancelled and a replacement card issued.
- 9.4 E. *Spending Limits.* Spending limits shall be set by the ~~chief financial officer~~Director of Finance and Administration for each P-card, based upon the cardholder’s employee grade and position, including any unique purchasing needs associated with the employee’s responsibilities. A P-cardholder may request a temporary (up to ~~1430~~ days) adjustment to

the cardholder’s spending limits to accommodate short-term travel needs. Any short-term excess spending needs that do not involve travel should be coordinated with the Director of Finance and Administration.

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## 9.5 Submission and Approval of Charges to the P-Card.

9.5 A. *Documentation.* The P-cardholder shall obtain a receipt for all charges placed on the P-card. Receipts shall be submitted to the cardholder’s supervisor for review and approval in such form – including the use of particular software – as the Director of Finance and Administration may prescribe.

9.5 B. *Review.* The P-cardholder’s supervisor shall review all P-card charges for sufficiency of documentation as to: (1) what was procured; (2) who was involved; (3) where the transaction took place; (4) why the transaction was necessary; and (5) whether the account ledger code is correct. Upon approval by the supervisor, an expense report shall be furnished to Accounts Payable. If a supervisor is not available to review and approve an expense report, the Director of Finance and Administration may delegate this authority to other senior management personnel.

9.5 C. *DRBC Compact Requirements.* The P-card system shall in no way affect adherence to Section 14.9 (“Purchasing”) of the Compact, which shall remain controlling for all purchases covered by that section.

9.5 D. *Missing or lost transaction receipt; personal charge.*

1. When a receipt is missing or lost, the P-cardholder shall provide the Director of Finance and Administration with a completed “Lost Receipt Form.” If the value of the charges reflected on the missing or lost transaction receipt exceeds \$10.00, the P-cardholder’s supervisor must approve and sign the Lost Receipt Form in advance of providing the Lost Receipt Form to the Director of Finance and Administration.
2. If a missing or lost receipt is later found, the cardholder shall promptly submit it to Accounts Payable.
3. The P-card is not to be used for personal expenses. If personal charges are incurred on the P-card, the cardholder shall submit a check payable to “DRBC” promptly for the sum of the personal charges.

## 9.6 Unprocessed Expense Aging.

9.6 A. *Account Reconciliation.* The Commission finance group will perform monthly reconciliations to identify open charges not yet processed (i.e., charges for which documentation has not been submitted). Each P-cardholder will receive an email notification regarding the P-cardholder’s unprocessed expenses aged 30 days or more.

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9.6 B. *Consequences of Unreconciled Expenses.*

1. When charges go unprocessed for 45 days, the P-cardholder's account may be deactivated.
2. When a P-cardholder's expenses go unprocessed for 60 days, P-card privileges may be revoked and the P-card deactivated.
3. A suspended P-card account may be reactivated upon submission to the P-card Administrator of a satisfactory written explanation for the delay in processing transactions.

**9.7 Waivers.** Any deviation, waiver or exception from the procedures set forth in this Chapter 9 shall require the prior written approval of the Executive Director. The P-card Administrator shall be responsible for maintaining a record of each waiver request and the corresponding determination. Any cardholder who receives a waiver also is responsible for retaining documentation of the waiver approval.

**9.8. Non-compliance.** An employee who violates or circumvents the practices set forth in this Chapter 9 may be subject to disciplinary action, including termination.

## ATTACHMENT C

### DESCRIPTION OF PROJECTS APPROVED BY THE COMMISSION DURING THE BUSINESS MEETING OF SEPTEMBER 9, 2021

*Background.* Projects subject to Commission review in accordance with the Delaware River Basin Compact and Commission regulations must have the Commission’s approval in the form of a docket, permit or resolution (collectively, “docket”).

The Commission’s project review process takes six to nine months to complete, and the public is informed of the status of project applications by a variety of means during that period:

- Each project for which an application is received is added to the “Project Review Status Report” maintained at [https://www.nj.gov/drbc/programs/project/project-review\\_status-pg.html](https://www.nj.gov/drbc/programs/project/project-review_status-pg.html). This report includes the applicant’s name and project location, a description of the proposed project, the docket number assigned to the project, and the name of the staff member reviewing the project.
- A list of applications received is compiled and posted as a “Notice of Applications Received” (NAR) at <https://www.nj.gov/drbc/programs/project/nar.html>, approximately once per month.
- Anyone interested in receiving notices about projects under review as the notices are posted on the Commission’s website, may sign up for the Commission’s listserv at <https://www.nj.gov/drbc/contact/interest/index.html>.
- Members of the public seeking additional information about a project may contact the staff member reviewing the project or arrange by appointment to review the relevant Project Review file at any time that is mutually convenient for the staff and the party.
- Approximately six weeks before the Commission’s scheduled public hearing date, draft dockets are circulated to the Commission’s members for review and comment by the appropriate state and federal agencies.
- Ten days prior to the hearing date, the hearing notice, along with draft dockets, is posted on the Commission’s website. A public hearing and meeting notice also appears in the Federal Register and certain state registers in accordance with the respective schedules of these publications. The register notice directs readers to the Commission’s website for links to the draft dockets available for comment.

Written comment on hearing items is ordinarily accepted until 5 p.m. on the Monday of the week following the public hearing.

At the Commissioners’ regularly scheduled public meetings, the Commissioners may approve, disapprove or postpone consideration of any docket for which a hearing has been completed. Approved dockets are posted on the Commission’s website as quickly as possible following the date on which the Commission acted. Delay of a few days may occur to complete clerical work, particularly in instances in which the Commissioners approve a docket with modifications.

The projects are customarily considered in three categories—Category A, project renewals with no substantive changes; Category B—project renewals with substantive changes; and Category

C—projects not previously reviewed by the Commission. Descriptions of the projects (based on the applications received, which may vary from final projects) for which the Commission issued approvals on September 9, 2021 are presented below.

*A. Renewals with No Substantive Changes (Items 2 through 18).*

1. Cambridge Lee Industries, Inc., D-1970-120-4. (Consideration of this item was deferred to allow additional time for review.)
2. Aqua Pennsylvania, Inc., D-1977-094 CP-3. An application to renew the approval of an existing groundwater withdrawal with a decrease in allocation from 27.82 mgm to 24.7 mgm to supply the applicant's Flying Hills public water supply distribution system from existing Wells Flying Hills 1, Flying Hills 2 and Flying Hills 3 (Green Hills Manor Well). The Flying Hills Wells 1 and 2 are completed in Brunswick Conglomerate and Flying Hills Well 3 is complete in Hammer Creek Conglomerate. The approval will also remove Green Hills Wells 1 and 2 from the system. The Green Hills Well 1 will continue to be utilized to supplement a pond at the Green Hills Corporate Center, the usage will be below the Commission's withdrawal threshold. Green Hills Well 2 has been taken offline and abandoned. The project is located in the Schuylkill River Watershed in Cumru Township, Berks County, Pennsylvania.
3. Horsham Water & Sewer Authority, D-1988-017 CP-4. An application to renew the approval of the existing 2.79 mgd Horsham Water & Sewer Authority Park Creek WWTP and its discharge. Effluent limits from the Commission and PADEP are based upon an average flow of 2.25 mgd. The WWTP will continue to discharge treated effluent to Park Creek at River Mile 115.63 - 24.1 - 9.0 - 1.1 (Delaware River - Neshaminy Creek - Little Neshaminy Creek - Park Creek) in Horsham Township, Montgomery County, Pennsylvania.
4. North Wales Water Authority, D-1990-006 CP-4. An application to renew the approval of an existing groundwater withdrawal of up to 195 mgm of groundwater from existing Wells Nos. 1, 4, 8, 9, 10, 11, 14, 17, 21, 22, 25, 31 and 34; and to receive up to 15.88 million gallons per day (mgd) or 492.28 million gallons per month (mgm) potable water via an interconnection with the Forest Park Water Treatment Plant to supply water to the applicant's public water supply distribution system. The North Wales Water Authority serves customers in the Borough of North Wales and portions of Upper Gwynedd, Lower Gwynedd, Whitpain, Upper Dublin, Horsham and Montgomery Townships in Montgomery County; and New Britain, Warminster, Warrington, and Doylestown Townships in Bucks County. The North Wales Water Authority wells are completed in the Stockton, Brunswick and Lockatong Formations. The project is located within the Commission's designated Southeastern Pennsylvania Ground Water Protected Area (SEPA GWPA) in Neshaminy, Wissahickon and Stony Creek Watersheds in Whitpain, Lower Gwynedd, Montgomery, Upper Gwynedd and Upper Dublin Townships, Montgomery County, Pennsylvania.
5. Lake Adventure Comm. Assoc., D-1993-062 CP-4. An application to renew approval of the applicant's existing 0.160 million gallons per day (mgd) WWTP and its related discharges. The WWTP will continue to seasonally discharge a portion of the treated effluent to land via spray irrigation and a portion will continue to discharge to an unnamed tributary to Birchy Creek at River Mile 273.2 – 13.3 – 0.2 - 0.7 (Delaware River – Shohola Creek – Birchy Creek - UNT

Birchy Creek) and is located in the drainage area to the Upper Delaware Special Protection Waters (SPW), in Dingman Township, Pike County, Pennsylvania. .

6. Shoemakersville Municipal Authority, D-1993-074 CP-6. An application to renew approval of the docket applicant's existing 0.75 million gallons per day (mgd) WWTP its discharge. The WWTP will continue to discharge treated effluent to the Schuylkill River at River Mile 92.5 – 92.3 (Delaware River – Schuylkill River), in Shoemakersville Borough, Berks County, Pennsylvania.
7. Superior Tube Company, Inc., D-1996-013 -3. An application to renew the approval of an existing groundwater and surface water withdrawal of up to 13.4 mgm to serve the applicant's industrial facility from 11 existing wells and a surface water intake located on Perkiomen Creek. The groundwater withdrawal is part of a groundwater remediation project at the Superior Tube facility and is being performed by the docket holder as part of the Resources Conservation and Recovery Act (RCRA) Corrective Action Program under U.S. EPA Docket No. RCRA-III-029-CA. The project wells are completed in the Brunswick Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Commission's designated Southeastern Pennsylvania Ground Water Protected Area (GWPA) in the Perkiomen Creek Watershed in Lower Providence Township, Montgomery County, Pennsylvania.
8. Newmanstown Water Authority, D-1997-040 CP-3. An application to renew the approval of a groundwater withdrawal of up to 9.579 million gallons per month from existing wells 1, 4 and 5 for use in the docket holder's public water supply system. The wells are completed in the Leithsville and Millbach Formations and are located in the Mill Creek Watershed in Millcreek Township, Lebanon County, Pennsylvania.
9. Parkhouse Providence Pointe, D-2000-040 CP-3. An application to renew the approval of an existing groundwater withdrawal of up to 8.06 million gallons per month of water from Wells 2, 3, and 4 for use in the docket holder's public water supply system. The requested allocation is not an increase from the previous allocation. The wells are completed in the Brunswick Formation and are located within the Commission's designated SEPA GWPA in the Schuylkill River Watershed in Upper Providence Township, Montgomery County, Pennsylvania.
10. MC Resource Development Company, D-2000-065 -3. An application to renew the approval of an existing groundwater withdrawal of up to 7.13 million gallons per month to supply the docket holder's bulk water withdrawal and hauling operation from existing Wells PV-1 and PV-2. The requested allocation is not an increase from the previous allocation. The wells are completed in the Bloomsburg Formation and are located in the Indian Run Watershed in East Brunswick Township, Schuylkill County, Pennsylvania.
11. Union League of Philadelphia, D-2001-057 -3. An application to renew the approval of an existing groundwater withdrawal of up to 13.12 mgm to irrigate the applicant's golf course from existing Well Nos. 1 and 4. The project wells are completed in the Wissahickon Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Commission's designated Southeastern Pennsylvania Ground Water Protected Area (GWPA) in the Schuylkill River Watershed in Whitemarsh Township, Montgomery County, Pennsylvania.

12. BlueTriton Brands, Inc., D-2002-045 -3. An application to renew the approval of an existing groundwater withdrawal of up to 7.23 mgm to supply the applicant's bottled water facility from Well PW-1 and an importation of up to 23.219 mgm of water from three additional water sources located in the Susquehanna and Ohio River Basins. The bottled water facility and project well are located in the Iron Run Watershed within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters in Upper Macungie Township, Lehigh County, Pennsylvania.
13. Pennsylvania American Water Company, D-2006-036 CP-3. An application to renew the approval of the applicant's existing 0.14 mgd Rock Run WFP and its related discharge. Treated effluent will continue to be discharged to Rock Run at River Mile 70.73 - 1.5 - 20.0 - 17.1 - 2.2 (Delaware River - Christina River - Brandywine Creek - West Branch Brandywine Creek - Rock Run) via Outfall No. 001, in West Caln Township, Chester County, Pennsylvania.
14. Upper Makefield Township, D-2007-025 CP-4. An application to renew the approval of the applicants existing 0.05555 mgd Enclave WWTP and its discharge. The WWTP discharge will continue to discharge treated effluent to Houghs Creek at River Mile 140.5 – 3.7 (Delaware River – Houghs Creek) via Outfall No. 001, within the drainage area to the Lower Delaware Special Protection Waters (SPW), in Upper Makefield Township, Bucks County, Pennsylvania.
15. Blackwood Golf Course, D-2010-024 -2. An application to renew the approval of an existing groundwater withdrawal of up to 3.57 mgm to irrigate the applicant's golf course from existing Well Nos. 1 and 2. The project wells are completed in the Brunswick Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Commission's designated Southeastern Pennsylvania Ground Water Protected Area (SEPA GWPA) in the Schuylkill River Watershed in Union Township, Berks County, Pennsylvania.
16. Altuglas LLC, D-2010-041 -2. An application to renew the approval of an existing groundwater withdrawal of up to 5.88 mgm to supply water to the applicant's industrial processing facility from existing Well No. WS-1. The project well is completed in the Upper Raritan Sand Aquifer. The requested allocation is not an increase from the previous allocation. The project is located in the Delaware River Watershed in Bristol Township, Bucks County, Pennsylvania.
17. Easton Area Joint Sewer Authority, D-1987-010 CP-3. An application to renew the applicant's existing WWTP and approve the proposed project. The proposed project consists of upgrading the facility's disc filter system for increased solids removal. The WWTP will continue to discharge treated effluent directly to Water Quality Zone 1E at River Mile 182.8, to the classified Lower Delaware River Special Protection Waters (SPW), in the City of Easton, Northampton County, Pennsylvania.
18. Spring Township, D-1988-077 CP-5. An application to approve a modification to the docket holder's existing 2.0 million gallons per day (mgd) WWTP and its discharge. The proposed modification consists of installing a third final clarifier and appurtenant equipment. The WWTP will continue to discharge treated effluent to Cacoosing Creek, at River Mile 92.47 – 76.8 – 4.0 – 2.0 (Delaware River – Schuylkill River – Tulpehocken Creek – Cacoosing Creek), in Spring Township, Berks County Pennsylvania.

*C. Projects not previously reviewed by the Commission (Item #19).*

19. PSEG Power LLC, D-2020-002-1. An Application for review of the dredging of the Delaware River for the proposed New Jersey Wind Port; a marshalling port to support offshore wind energy development in New Jersey and throughout the eastern United States. The project is located at River Mile 52.1 of the Delaware River in Lower Alloways Creek Township, Salem County, New Jersey. The project includes the dredging of approximately 1,960,000 cubic yards of sediment to accommodate the proposed approach channel, turning basin and berthing pockets.