**Section 4440.170 Adjustments to Basic 415(b) Limitation for Form of Benefit**

a) If the benefit under the pension fund is other than the form specified in Section 4440.160, then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations (26 CFR 1.415(b)).

b) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then subsection (a) is applied by either reducing the IRC section 415(b) limit applicable at the pension benefit starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in 26 CFR 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:

1) For a benefit paid in a form to which IRC section 417(e)(3) does not apply (a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced 415(b) limit applicable at the annuity starting date that is the "lesser of", when adjusted in accordance with the following assumptions):

A) The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member; or

B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in IRC section 417(e)(3)(B) (see Notice 2008-85, published by the Internal Revenue Service on September 29, 2008); or

2) For a benefit paid in a form to which IRC section 417(e)(3) applies (a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced 415(b) limit applicable at the annuity starting date that is the "least of", when adjusted in accordance with the following assumptions):

A) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

B) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under IRC section 417(e)(3)(B) (see IRS Notice 2008-85); or

C) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under 26 CFR 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement and, on and after January 1, 2007, using the rate then in effect for the first day of the plan year, with a one-year stabilization period)) and the applicable mortality rate for the distribution under IRC section 417(e)(3)(B) (see IRS Notice 2008-85), divided by 1.05.