

CHAPTER 11

NEW JERSEY WATER SUPPLY AUTHORITY

Authority

N.J.S.A. 58:1B-7.

Source and Effective Date

R.1998 d.266, effective April 30, 1998.
See: 30 N.J.R. 760(a), 30 N.J.R. 1987(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 11, New Jersey Water Supply Authority, expires on October 27, 2003. See: 35 N.J.R. 2004(a).

Chapter Historical Note

All provisions of this chapter became effective January 1, 1975 as R.1974 d.362. See: 6 N.J.R. 427(c), 7 N.J.R. 49(a). Subchapter 3. Rules for the use of water from the Delaware and Raritan Canal and Spruce Run/Round Valley reservoir system became effective January 1, 1975 as R.1974 d.363. See: 6 N.J.R. 428(a), 7 N.J.R. 50(a).

1979 Revisions: Amendments became effective January 18, 1979 as R.1979 d.32. See: 10 N.J.R. 229(a), 11 N.J.R. 64(c). Subchapter 4 was amended by R.1979 d.31, effective January 18, 1979. See: 10 N.J.R. 231(a), 11 N.J.R. 64(b).

1982 Revisions: Amendments became effective December 20, 1982 (operative January 1, 1983) as R.1982 d.455. See: 14 N.J.R. 681(a), 14 N.J.R. 1449(b).

1983 Revisions: On June 6, 1983 rules at N.J.A.C. 7:11-4 concerning the Raritan River Basin system and the Spruce Run/Round Valley reservoir complex were revised and consolidated with the Delaware and Raritan Canal general rate schedule in subchapter 2. See: 15 N.J.R. 122(a), 15 N.J.R. 891(a). Subsequently on June 6, 1983, R.1983 d.91 repealed subchapter 4 and rules concerning the Spruce Run/Round Valley reservoir complex were revised and consolidated with the Delaware and Raritan Canal general rate schedule under N.J.A.C. 7:11-2. See: 15 N.J.R. 122(a), 15 N.J.R. 891(a). Subchapter 5 (Raritan Basin System, Spruce Run/Round Valley Reservoir Complex, Water Sales) expired pursuant to Executive Order 66(1978) on December 31, 1983. The Department and the Water Supply Authority found this rule to be obsolete so no new rules will be adopted.

1984 Revisions: Further amendments became effective April 2, 1984 as R.1984 d.109. See: 15 N.J.R. 1311(a), 16 N.J.R. 708(a).

1985 Revisions: Amendments became effective August 5, 1985 (operative October 1, 1985) as R.1985 d.402. See: 17 N.J.R. 11(a), 17 N.J.R. 1879(a).

1986 Revisions: Amendments became effective May 19, 1986 (operative July 1, 1986) as R.1986 d.187. See: 18 N.J.R. 17(a), 18 N.J.R. 1100(a).

1987 Revisions: Subchapter 3 was completely amended effective May 18, 1987 as R.1987 d.228. See: 18 N.J.R. 1330(a), 19 N.J.R. 868(a). There were amendments to sections 1 through 3; recodification of section 4 to section 5 with amendments to section 5; repeal of old sections 5 through 22 and new rules adopted for sections 6 through 28.

1988 Revisions: Subchapter 1. Use of Water Supply Authority Property was repealed and a new Subchapter 1, Rules for the Use of Water Supply Authority Property was adopted effective March 7, 1988 as R.1988 d.100. See: 19 N.J.R. 1274(a), 20 N.J.R. 528(a). This chapter was readopted pursuant to Executive Order 66(1978) effective June 6, 1988 with amendments to sections 1.6, 1.19, 1.27, 1.32 and 1.37

and without subchapter 5 which expired December 31, 1983 as R.1988 d.264. See: 20 N.J.R. 448(a), 20 N.J.R. 1285(a).

1990 Revisions: Subchapter 4 was adopted as R.1990 d.293, effective June 4, 1990. See: 21 N.J.R. 3838(a), 22 N.J.R. 1756(a), and Subchapter 5 was adopted as R.1990 d.629, effective December 17, 1990 (operative July 1, 1990). See: 21 N.J.R. 3701(a), 22 N.J.R. 3741(a).

Pursuant to Executive Order 66(1978), Chapter 11, New Jersey Water Supply Authority, was readopted as R.1993 d.239, effective May 3, 1993. See: 25 N.J.R. 1036(a), 25 N.J.R. 2267(a).

Pursuant to Executive Order 66(1978), Chapter 11, New Jersey Water Supply Authority, was readopted as R.1998 d.266, effective April 30, 1998. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. RULES FOR THE USE OF WATER SUPPLY AUTHORITY PROPERTY

7:11-1.1 Scope

Unless otherwise provided by rule or statute, this subchapter shall constitute the rules of the New Jersey Water Supply Authority governing the use of the Spruce Run and Round Valley Reservoir Complex, Delaware and Raritan Canal Transmission Complex, and all other State operated or owned water supply facilities under the administrative jurisdiction of the Authority now or hereafter authorized to be designed, constructed and operated pursuant to any past or future bond issue.

7:11-1.2 Construction

This subchapter shall be liberally construed to permit the New Jersey Water Supply Authority to discharge its statutory functions.

7:11-1.3 Practice where rules do not govern

The Executive Director of the New Jersey Water Supply Authority shall exercise his or her authority in respect to any other matters not governed by this subchapter.

7:11-1.4 Relationship to Federal and State law

This subchapter shall not relieve any person of the duty to comply with all other laws and regulations governing activities regulated by this subchapter, including all other applicable regulations of the Department and other State, Federal and local agencies.

7:11-1.5 Purpose

(a) The purpose of this subchapter is to protect Authority resources and improvements thereon and to assure the safety, protection and general welfare of visitors and personnel on properties under its jurisdiction.

(b) Failure or refusal to obey the rules set out in this subchapter or any other applicable State law, rule or regulation shall be sufficient cause for removal from Authority property and prosecution by duly authorized personnel.

7:11-1.6 Definitions

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

“Act” means the New Jersey Water Supply Authority Act, N.J.S.A. 58:1B-1 et seq.

“ATV” means a motor vehicle, designed to travel over any terrain which is of a type possessing between three to six rubber tires and powered by a gasoline engine not exceeding 400 cubic centimeters but shall not include golf carts.

“Authority” means the New Jersey Water Supply Authority established in but not of the Department of Environmental Protection, pursuant to N.J.S.A. 58:1B-4.

“Closed” means a complete prohibition of access except by Authority personnel.

“Code” means the New Jersey Administrative Code.

“Commission” means the Delaware and Raritan Canal Commission.

“Commissioner” means the Commissioner of the Department of Environmental Protection who is also the Chairman and Chief Executive Officer of the Authority, or any other person designated to act on his behalf.

“Delaware and Raritan Canal” or “D & R Canal” means the Delaware and Raritan Canal Transmission Complex.

“Department” shall mean the Department of Environmental Protection.

“Executive Director” means the chief administrative officer of the Authority appointed to N.J.S.A. 58:1B-5j, or any other person designated to act on his or her behalf.

“Facility” means all property, real or personal, including but not limited to the structures, buildings, equipment, storage vessels and other operations located on property owned by or under the jurisdiction of the Authority.

“Furbearers” means any animal which bears a fur skin.

“Motor vehicle” means any vehicle propelled by other than muscular power, except such vehicles that run only upon rails or tracks.

“Mud flats” means the muddy bottom of the reservoir which is normally covered by water but which is exposed to the air as the water level recedes.

“Open burning” means any fire whereby products of combustion are emitted directly into the open air, and are not directed through the stack or chimney of an incinerator.

“Permission” means the written or verbal authority given by the Executive Director or his or her lawful designee to engage in a public use.

“Permit” means a formal document issued by the Authority allowing a specified activity, properly executed and signed by the Executive Director.

“Person” means, but is not limited to, corporations, companies, associations, societies, including non-profit organizations, firms, partnerships, joint stock companies, individuals and governmental entities.

“Power boats” means all fuel or battery powered boats.

“Public agencies” means the government of the United States of America, the State of New Jersey, their political subdivisions, agencies or instrumentalities, and interstate and regional agencies exercising sovereign powers of government.

“Public recreation and conservation purposes” means the use of land and waters for parks, natural and historic areas, nature education, forests, camping, fishing, water reserve, wildlife preservation, hunting, boating, recreation centers, winter sports and similar uses.

“Public use” means a use or right of use available to the general public or some portion thereof for public conservation and recreation purposes.

“Round Valley Recreation Area” means those areas of the Round Valley Reservoir which are under the administrative jurisdiction of the State Park Service and/or the Division of Fish, Game and Wildlife for the purpose of providing public recreational activities, including but not limited to swimming beaches, camping and picnic sites, horse trails, boat launching areas, and office, research and maintenance areas.

“Signs” means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.

“Small electric motors” means electric powered motors with size no greater than four horse-power.

“Snowmobile” means any motor vehicle designed primarily to travel over ice or snow, of a type which uses sled-type runners, skis, and endless belt, treads, cleats or any combination of those or other similar means of contact with the surface upon which it is operated.

"Special event" means an organized race, exhibition or demonstration of limited duration which is conducted according to a prearranged schedule for which general public interest is apparent.

"Spelunking" means any activity which involves the exploration of caves.

"Spruce Run Recreation Area" means those areas of the Spruce Run Reservoir which are under the administrative jurisdiction of the State Park Service and/or the Division of Fish, Game and Wildlife for the purpose of providing public recreational activities, including but not limited to swimming beaches, camping and picnic sites, boat launching or storage areas, and office, research and maintenance areas.

"State" means the State of New Jersey.

"State Park Service" means the New Jersey Division of Parks and Forestry in the Department of Environmental Protection.

"Waters" means all water within the jurisdiction of the Authority.

Amended by R.1988 d.264, effective June 6, 1988.
See: 20 N.J.R. 448(a), 20 N.J.R. 1285(a).

Added text to definitions of "Round Valley Recreation Area" and "Spruce Run Recreation Area".

7:11-1.7 Designation of land and water use

The New Jersey Water Supply Authority reserves the right to designate or direct any and all recreation or other public use on its lands and waters and within its facilities to such specific areas or locations within or upon said lands, waters and facilities as will be in the best interest of water supply, conservation, preservation, management of its facilities, and the health, safety and welfare of all persons concerned.

7:11-1.8 Posted instructions

No person shall make use of the lands, waters, conveniences and facilities under the jurisdiction of the Authority contrary to any instructions posted at Authority facilities and/or set out in any permit issued by the Authority.

7:11-1.9 Limitation or closing of land and water use

(a) The New Jersey Water Supply Authority may limit or close to the public the use of specific areas, lands, waters and facilities under its jurisdiction whenever such action is deemed necessary for proper management and operation of its facilities and is in the best interest of the water supply, health, safety, and welfare of the public. Any decision to limit or close shall be announced to the public by a news release in a newspaper or newspapers of appropriate circulation, by notice on site and/or by written notice posted at the Authority's security office located in the Authority's administration building.

(b) Except in the event of an emergency, natural or otherwise, the Authority shall first consult with affected Department divisions and/or the Commission about the need to curtail or close the use of the property. Notification of any land use limitation shall be communicated by the Authority to the Department divisions and/or the Commission verbally and in writing.

7:11-1.10 Posting, soliciting and selling

No person shall post signs or notices, distribute advertisements, beg, solicit, sell, or attempt to commit such acts on property under the control of the Authority without the written permission of the Authority.

7:11-1.11 Commercial use

No person shall engage in commercial enterprise and activities on lands and waters under the jurisdiction of the Authority without a permit issued by the Authority or pursuant to a contract or lease entered into with the Authority.

7:11-1.12 Alcoholic beverages

No person shall possess and/or consume alcoholic beverages on any lands and waters under the jurisdiction of the Authority except in certain locations in those recreation areas where the sale, use or possession of alcoholic beverages is specifically approved as evidenced by posted signs.

7:11-1.13 Dumping/littering

(a) No person shall dump, litter or burn trash, refuse, garbage, bottles, pollutants, or any other foreign substances or liquids on lands and waters under the jurisdiction of the Authority.

(b) Every person shall place all litter in proper refuse containers or shall remove the litter from the area.

7:11-1.14 Furred animals and pets

(a) Except as provided in N.J.A.C. 7:11-1.15 and (b) below, all furred animals or pets are prohibited from buildings, bathing beaches, bathing waters and overnight facilities.

(b) At other areas, where permitted, except as provided in N.J.A.C. 7:11-1.15, the owner of any furred animal or pet shall keep the furred animal or pet caged or held on a leash (maximum length—six feet) and under the immediate control of the owner at all times.

(c) Any nuisance, unsanitary condition, damage or injury caused by furred animals or pets shall be the sole responsibility of the owner of such animal.

7:11-1.15 Exemption of seeing eye, companion and hunting dogs

(a) Seeing eye dogs and companion dogs for the hearing impaired are permitted in any location where their presence is necessary to perform the duty for which they are trained.

(b) Dogs used while hunting during open season or used while on field trials in accordance with N.J.A.C. 7:25-5.20, are exempt from the leashing rule set forth at N.J.A.C. 7:11-1.14(b).

7:11-1.16 Damage to Authority property

(a) No person shall abuse, mutilate, injure, destroy, move or remove any living plant or animal or any structures or other physical features or properties on lands and water under the jurisdiction of the Authority without having first obtained the permission of the Authority.

(b) Subsection (a) above shall not apply to activities related to the capture, trapping, or hunting of fish, furbearers and other wildlife as permitted pursuant to Title 23 of New Jersey Statutes Annotated and N.J.A.C. 7:25-1 et seq., in those areas provided for such activities.

7:11-1.17 Conduct

No person shall engage in conduct or use language which disrupts, interferes with or prevents the enjoyment or maintenance of Authority lands or waters by other visitors or Authority personnel.

7:11-1.18 Fires (open)

(a) No person shall start or maintain any open fire upon lands under the jurisdiction of the Authority unless permission is given by the Executive Director or his or her designee and all Department rules regarding open burning as set out at N.J.A.C. 7:27-2.3 are complied with, if applicable. Such permission may include designated hours, location and types of fuel to be used.

(b) All types of fire may be prohibited by the Authority during periods of high forest fire danger.

7:11-1.19 Picnicking

No person shall picnic, with or without cooking grills, on property under the jurisdiction of the Authority except for those areas which are designated for such use. This provision shall not apply to informal picnicking by a small number of persons along the D & R Canal.

Amended by R.1988 d.264, effective June 6, 1988.

See: 20 N.J.R. 448(a), 20 N.J.R. 1285(a).

Added text "This provision shall ...".

7:11-1.20 Target practice

No person shall engage in target practice with any type of firearm or bow and arrow on Authority property unless by written permission of the Executive Director or his or her

designee, and then only in specific areas designated by the Executive Director or his or her designee.

7:11-1.21 Metal detectors

No person shall use metal detectors or similar devices without a permit issued by the Authority. Said permit may limit the location, hours, and days of use. The Authority may deny permits for use in areas of significant historical or other value or where such use would be incompatible with protection of the resource and/or would interfere with public use of the facility.

7:11-1.22 Horseback riding

No person shall ride horseback on property under the jurisdiction of the Authority except on designated trails and in designated areas where horseback riding is allowed.

7:11-1.23 Hiking

No person shall hike on property under the jurisdiction of the Authority except on designated trails and in designated areas only.

7:11-1.24 Camping

No person shall camp on property under the jurisdiction of the Authority except in designated areas.

7:11-1.25 Swimming

No person shall swim in waters under the jurisdiction of the Authority except in designated areas.

7:11-1.26 Spelunking

No person shall spelunk on grounds under the jurisdiction of the Authority without a permit issued by the Executive Director or his or her designee.

7:11-1.27 Recreational activities

(a) All individual and group visits involving recreational facilities on Authority property but under the administrative control of the State Park Service or the Division of Fish, Game and Wildlife in the Department are also subject to the rules and regulations of the State Park Service, N.J.A.C. 7:2-1 et seq., and the Division of Fish, Game and Wildlife, N.J.A.C. 7:25-1 et seq.

(b) Activities not included in (a) above shall require a written permit issued by the Executive Director of the Authority or his or her designee. Interested individuals shall apply in writing to:

Executive Director
New Jersey Water Supply Authority
Post Office Box 5196
Clinton, New Jersey 08809

(c) No person shall engage in the following recreational activities on Authority lands and waters without a written

permit issued by the Executive Director or his or her designee:

1. Parachuting;
2. Hot air ballooning;
3. Hang gliding;
4. Musketry, flint-lock, black powder shooting (other than hunting as noted in N.J.A.C. 7:11-1.28);
5. Rappelling;
6. Model airplane flying;
7. Model boating operation;
8. Rocketry;
9. Geological sampling expeditions;
10. Scuba diving;
11. Skin diving.

Amended by R.1988 d.264, effective June 6, 1988.

See: 20 N.J.R. 448(a), 20 N.J.R. 1285(a).

Added new (c)7 and renumbered (c)7-10 to 8-11.

7:11-1.28 Hunting, fishing and trapping

(a) No person shall hunt, fish and trap except on specifically designated lands and waters of the Authority. All such use shall comply with Title 23 of the New Jersey Statutes Annotated, and the rules promulgated pursuant thereto, N.J.A.C. 7:25-1 et seq.

(b) No person shall fish within 200 feet of any reservoir tower.

(c) No person shall fish within any areas marked with buoys and/or signs saying "Keep Out—No Trespassing" or "Restricted Area".

(d) No person shall hunt with a rifle on Authority property except for muzzle loading in conformance with N.J.A.C. 7:25-5.1 et seq.

(e) The temporary use of portable hunting blinds and stands is permitted in authorized hunting areas only, provided that such devices shall be immediately removed by the hunter after use.

Amended by R.1998 d.266, effective June 1, 1998.

See: 30 N.J.R. 760(a), 30 N.J.R. 1987(a).

Deleted (d) and recodified former (e) and (f) as (d) and (e).

7:11-1.29 Identification and license of motor vehicles

(a) No person shall operate any motor vehicle as defined in N.J.S.A. 39:1-1 and N.J.A.C. 7:11-1.6 and identified as such by the NJ Division of Motor Vehicles in the New Jersey Department of Law and Public Safety on lands under the jurisdiction of the Authority or on established roads under the control of the Authority unless the vehicle is licensed and registered by the Division of Motor Vehicles before it is operated.

(b) No person shall operate a vehicle on said lands, unless the operator of the vehicle shall have in his or her possession a valid operator's license and other documentation required by the Division of Motor Vehicles in the New Jersey Department of Law and Public Safety as set forth in N.J.A.C. 13:21-1.1 et seq.

7:11-1.30 Unauthorized motor vehicles

(a) No person shall operate any motor vehicle which does not require licensing by the Division of Motor Vehicles in the New Jersey Department of Law and Public Safety on lands and/or waters under the jurisdiction of the Authority unless a permit is issued by the Executive Director or his or her designee for that activity.

(b) Any permit granted by the Authority pursuant to (a) above shall include designated hours and specific locations for operation.

(c) No person shall operate a motor vehicle upon the ice-covered waters of the Authority at any time without a permit issued by the Executive Director or his or her designee.

7:11-1.31 Motor vehicle conformance to state laws

All motor vehicles operated on lands under the jurisdiction of the Authority shall be subject to New Jersey Motor Vehicles Laws, N.J.S.A. 39:1-1 et seq., and all Authority regulations set forth herein at N.J.A.C. 7:11-1.1 et seq.

7:11-1.32 Operation of motor vehicles

(a) No person shall operate any motor vehicle on Authority lands except on established public roads or in designated parking areas unless permitted otherwise in accordance with this subchapter.

(b) No person shall operate a motor vehicle at any time on or over any road designated by "closed" signs or barriers. No person shall operate a motor vehicle on or over any cultivated or planted area, recreational trails, transmission line, survey line or in the woods or fields unless a permit is issued by the Executive Director or his or her designee.

(c) No person shall operate ATVs, trail bikes or off-road motor vehicles on or over restricted areas described in (b) above at any time except that when an area is so designated by the Authority, permits may be granted for organized special events to operate on an established course under prescribed conditions.

(d) No person or organization may conduct a motor vehicle race, rally, exhibition or demonstration of any type on Authority lands without a permit issued by the Executive Director or his or her designee.

Amended by R.1988 d.264, effective June 6, 1988.

See: 20 N.J.R. 448(a), 20 N.J.R. 1285(a).

Added "recreational trails" to (b).

7:11-1.33 Snowmobiles

No person shall use snowmobiles on lands and ice-covered waters under the jurisdiction of the Authority.

7:11-1.34 Motor vehicle speed limits

(a) No person shall travel by motor vehicle around the Authority Administration Building at a speed greater than 10 miles per hour.

(b) No person shall travel by motor vehicle on improved roadways under the jurisdiction of the Authority at a speed greater than 20 miles per hour unless posted otherwise.

7:11-1.35 Parking

No person shall park any vehicle, conveyance, or equipment except in areas designated for parking.

7:11-1.36 Application of rules to boating

Boating activities on Authority waters are also subject to the jurisdiction of the State Park Service and therefore all boating activities shall be in conformance with all rules of the State Park Service, N.J.A.C. 7:2-1.1 et seq.

7:11-1.37 Additional boating restrictions

(a) No person shall operate a power boat which has a motor size greater than 10 horsepower on Authority waters.

(b) No person shall operate a sailboat or ice sailboat with a mast height of greater than 30 feet on Authority waters.

(c) No person shall operate a boat at less than 200 feet distance from all reservoir towers.

(d) All boats are prohibited from entering areas marked with buoys, "Keep Out" signs, or "Restricted Area" signs.

(e) No person shall operate a power boat on the Delaware and Raritan Canal except that small electric motors may be used.

Amended by R.1988 d.264, effective June 6, 1988.

See: 20 N.J.R. 448(a), 20 N.J.R. 1285(a).

Added (d).

7:11-1.38 Sledding, skiing and tobogganing

No person shall sled, ski or toboggan except in designated areas only.

7:11-1.39 Ice fishing

No person shall ice fish unless in compliance with the appropriate section of the current Fish Code, N.J.A.C. 7:25-6.

7:11-1.40 Ice skating

No person shall ice skate except in designated areas under the supervision of the State Park Service.

7:11-1.41 Ice boating

No person shall ice boat or ice yacht on Spruce Run and Round Valley Reservoirs unless in compliance with all

applicable rules of the State Park Service, N.J.A.C. 7:2-8.1 et seq.

7:11-1.42 Trespassing

No person shall trespass in designated restricted areas posted with "Keep Out—No Trespassing" or "Restricted Area" signs.

7:11-1.43 Low water levels

During periods of low water levels in the reservoirs as evidenced by increased exposure of mud flats, all restricted area fence lines shall be deemed to be extended to the water's edge. This extension shall then be included in the restricted area limits and shall constitute the restricted area limits.

7:11-1.44 Delaware and Raritan Canal

(a) Swimming: In addition to all other restrictions set forth at N.J.A.C. 7:11-1.1 et seq. regarding use of Authority property, no person shall swim in the Delaware and Raritan Canal.

(b) Building of docks: No person shall build docks, of any kind or size, unless a written permit to build a dock has been given by the Authority and the State Park Service.

7:11-1.45 Explosives

No person shall use or possess explosives of any kind on any Authority property unless such activity is authorized by a permit issued by the Executive Director of the Authority or his or her designee.

7:11-1.46 Early warning systems

All early warning systems installed by the Authority to alert downstream residents of dangerous conditions involving Authority dams are the property of the Authority. No person shall damage, alter, tamper with, or disturb this equipment. Any person who causes damage, alters, tampers with or disturbs this equipment shall be subject to criminal action pursuant to N.J.S.A. 2C:17-3.

7:11-1.47 Severability

If any provision of this subchapter is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of the provisions shall not be affected thereby.

**SUBCHAPTER 2. SCHEDULE OF RATES,
CHARGES AND DEBT SERVICE
ASSESSMENTS FOR THE SALE OF WATER
FROM THE DELAWARE AND RARITAN
CANAL AND THE SPRUCE RUN/ROUND
VALLEY RESERVOIRS SYSTEMS**

7:11-2.1 General provisions

(a) This Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Delaware and

Raritan Canal–Spruce Run/Round Valley Reservoirs System (hereafter “the System”) shall be known and may hereafter be referred to in this subchapter as “the Schedule”.

(b) The rates, charges and debt service assessments listed below shall be paid for raw water diverted, withdrawn, or allocated from the Delaware and Raritan Canal–Spruce Run/Round Valley Reservoirs System. These rates, charges and debt service assessments set forth in this subchapter shall be incorporated in all water use agreements.

(c) The total rate charged under this schedule shall include the General Rate Schedule for Operations and Maintenance under N.J.A.C. 7:11-2.3, the Debt Service Assessments under N.J.A.C. 7:11-2.4, the Capital Fund Component under N.J.A.C. 7:11-2.5, and the Source Water Protection Fund Component under N.J.A.C. 7:11-2.6. (See N.J.A.C. 7:11-2.15, Special user rates for exception.)

Amended by R.1989 d.310, effective June 5, 1989 (operative July 1, 1989).

See: 21 N.J.R. 103(a), 21 N.J.R. 1527(a).

New subsection (a) added defining use of “the Schedule” and remaining old section broken into subsections (b) and (c).

Amended by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Amended by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Rewrote (c).

7:11-2.2 Definitions

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

“Authority” means the New Jersey Water Supply Authority established pursuant to N.J.S.A. 58:1B-1 et seq.

“Daily allotment charge” means a daily allocation charge equal to 100 percent of the value of the quantity of water specified in the water use agreement which the System water user is authorized to continuously withdraw without interruption each 24-hour period (see N.J.A.C. 7:11-2.7).

“Point of diversion” means the location where the user’s withdrawal facilities diverts the contractual water supply from the Raritan Basin System.

“Production factor” means the inverse ratio between any allocation for a depletive water diversion above the confluence of the Millstone and Raritan Rivers and its equivalent in sustained supply at the confluence at the Millstone and Raritan Rivers as follows: production factor = safe yield at the confluence/yield at the point of diversion (see N.J.A.C. 7:11-2.9).

“Raritan Basin System” (also referred to as “System”) means the raw water supply storage and delivery systems managed, operated and maintained by the Authority consisting of the Delaware and Raritan Canal Water Transmission Complex and the Spruce Run/Round Valley Reservoirs, all appurtenant facilities, and other real and personal property and rights therein, and appurtenances necessary or useful and convenient for the accumulation, supply, treatment or transmission of water.

“Retroactive debt service payment” means a payment in addition to the daily allotment charge which shall apply to all new or additional uninterruptible water supply contracts in order to proportionately reimburse pre-existing System water users for certain debt service payments previously made by them (see N.J.A.C. 7:11-2.12(c) and (d)).

“Short-term service” means the supply of Raritan Basin System water for interim or short-term uses, such as growing agricultural or horticultural products or meeting extraordinary requirements in consumer demand for potable water, provided on a non-guaranteed or interruptible basis.

“Standby service” means the supply of Raritan Basin System water for certain occasional uses, such as fire protection or other emergencies, natural or otherwise.

“System water user” (also referred to as “contractual water customer,” “purchaser” and/or “user”) means a party under legal contract with the Authority for a supply of raw water from the Raritan Basin System.

New Rule, R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).
See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Former section recodified to N.J.A.C. 7:11-2.3.

Amended by R.2001 d.208, effective June 18, 2001 (operative July 1, 2001).

See: 32 N.J.R. 4424(a), 33 N.J.R. 2098(a).

In “Production factor”, inserted “as follows: production factor = safe yield at the confluence/yield at the point of diversion”.

Amended by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

In “Daily allotment charge”, amended the N.J.A.C. reference; rewrote “Production factor” and “Raritan Basin System”.

7:11-2.3 General rate schedule for operations and maintenance

(a) The general rate schedule for operations and maintenance per million gallons listed at (b) below is based on estimated annual operations and maintenance expenses consisting of all current costs, obligations and expenses of, or arising in connection with, the operation, maintenance and administration of the System, and minor additions or improvements thereof or thereto, or the performance of any water purchase contract, including, but not limited to, all of the following:

(b) The Capital Fund Component rate per million gallons listed at (c) below is based on estimated annual capital expenses to properly maintain, rehabilitate or replace the facilities.

(c) Capital Fund Assessment

<u>Period</u>	<u>Allocation</u>	<u>Rate/Million Gallons</u>
7/1/2003 to 6/30/2004	Million Gallons per Day (MGD)	\$7.55

New Rule, R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Amended by R.1995 d.291, effective June 5, 1995.

See: 26 N.J.R. 4907(a), 27 N.J.R. 2205(a).

Fiscal year 1996 rate adjustments.

Recodified from 7:11-2.4 and amended by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

In (c), deleted the rate for the period "7/1/95 to 6/30/96", changed the period "7/1/96 to 6/30/98" to "7/1/97 to 6/30/98", and changed the Rate/Million Gallons from "\$20.00" to "\$29.22". Former section recodified to N.J.A.C. 7:11-2.6.

Amended by R.1998 d.270, effective June 1, 1998 (operative July 1, 1998).

See: 29 N.J.R. 5151(a), 30 N.J.R. 1988(a).

In (c), deleted "7/1/97 to 6/30/98" Period; and in "7/1/98" Period, changed Rate/Million Gallons from \$25.00 to \$28.98.

Amended by R.1999 d.180, effective June 7, 1999 (operative July 1, 1999).

See: 30 N.J.R. 4309(a), 31 N.J.R. 1484(a).

In (c), changed period and increased rate.

Amended by R.2000 d.238, effective June 5, 2000 (operative July 1, 2000).

See: 31 N.J.R. 4199(a), 32 N.J.R. 2077(a).

In (c), changed period and increased rate.

Amended by R.2001 d.208, effective June 18, 2001 (operative July 1, 2001).

See: 32 N.J.R. 4424(a), 33 N.J.R. 2098(a).

In (c), changed period and decreased rate.

Amended by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

In (c), amended period and increased rate.

Amended by R.2003 d.245, effective June 16, 2003 (operative July 1, 2003).

See: 35 N.J.R. 164(a), 35 N.J.R. 2650(a).

In (c), and amended period and decreased rate.

7:11-2.6 Source Water Protection Fund Component

(a) The Source Water Protection Fund Component Rate per million gallons listed at (b) below is based on the annual source water protection expenses agreed upon by Authority customers to acquire and otherwise protect parcels critical to the preservation of system water quality and quantity.

(b) Source Water Protection Fund Assessment

<u>Period</u>	<u>Allocation</u>	<u>Rate/Million Gallons</u>
7/1/2003 to 6/30/2004	Million Gallons per Day (MGD)	\$10.00

New Rule, R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Former N.J.A.C. 7:11-2.6, Daily allotment charge, recodified to N.J.A.C. 7:11-2.7.

Amended by R.2003 d.245, effective June 16, 2003 (operative July 1, 2003).

See: 35 N.J.R. 164(a), 35 N.J.R. 2650(a).

In (b), amended period and increased rate.

7:11-2.7 Daily allotment charge

(a) Effective on the date of commencement of charges as specified in N.J.A.C. 7:11-2.15 the user shall pay a daily allotment charge amounting to 100 percent of the value of the quantity specified in the agreement for 24-hour withdrawal at the rates specified in this schedule, as it may be amended from time to time.

1. The total charge shall include the general rate schedule for operations and maintenance described in N.J.A.C. 7:11-2.3, the applicable Debt Service Assessment as described in N.J.A.C. 7:11-2.4, the Capital Fund Component as described in N.J.A.C. 7:11-2.5, and the Source Water Protection Fund Component as described in N.J.A.C. 7:11-2.6.

2. The Rate for water diverted, withdrawn or allocated from the Raritan River Basin as supported by Spruce Run/Round Valley Reservoirs water release shall be modified by the appropriate production factor as specified in N.J.A.C. 7:11-2.9.

Amended by R.1989 d.310, effective June 5, 1989 (operative July 1, 1989).

See: 21 N.J.R. 103(a), 21 N.J.R. 1527(a).

Deleted reference to rates "prevailing in the agreement . . ." and referenced the Schedule, added "for Operations and Maintenance" after General Rate Schedule.

Recodified from 7:11-2.4 and amended by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Recodified from 7:11-2.5 and amended by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Changed N.J.A.C. references throughout the section. Former section recodified to N.J.A.C. 7:11-2.7.

Recodified from N.J.A.C. 7:11-2.6 and amended by R.2002 d.177 , effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

In (a), amended the N.J.A.C. reference in the introductory paragraph, deleted "and" preceding "the Capital Fund Component" and inserted ", and the Source Water Protection Fund Component as described in N.J.A.C. 7:11-2.6" following "N.J.A.C. 7:11-2.5" in 1, and substituted "The Rate for water" for "Water" and amended the N.J.A.C. reference in 2. Former N.J.A.C. 7:11-2.7, Equivalent sustained supply: Spruce Run/Round Valley Reservoirs System, recodified to N.J.A.C. 7:11-2.8.

7:11-2.8 Equivalent sustained supply: Spruce Run/Round Valley Reservoirs System

(a) In operating the Spruce Run/Round Valley Reservoirs System to augment natural stream flow during a period of low runoff, optimum dependable supply is attained at the confluence of the Millstone River where the combined flow from the tributaries to the Raritan River above that point becomes effective.

(b) Each application for the diversion, withdrawal or allocation of water from the Raritan River Basin is, therefore, to be evaluated, and differentiation in rates, charges and assessments shall be made on the basis of quantities of water to be supplied, distance between the facility and point

of diversion, the cost in making such water available, the place where the water is to be used, and the character of such use.

Amended by R.1985 d.402, effective August 5, 1985 (operative October 1, 1985).

See: 17 N.J.R. 11(a), 17 N.J.R. 1879(a).

"differentiation" substituted for "differentiation".

Amended by R.1989 d.310, effective June 5, 1989 (operative July 1, 1989).

See: 21 N.J.R. 103(a), 21 N.J.R. 1527(a).

Reorganized text into subsections (a) and (b).

Recodified from 7:11-2.5 by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Recodified from 7:11-2.6 by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Former section recodified to N.J.A.C. 7:11-2.8.

Recodified from N.J.A.C. 7:11-2.7 by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Former N.J.A.C. 7:11-2.8, Production factor, recodified to N.J.A.C. 7:11-2.9.

7:11-2.9 Production factor

(a) For any depletive diversion at any location above the confluence of the Millstone and Raritan Rivers, the inverse ratio between the allocation and its equivalent in sustained supply at the confluence is expressed as the Production Factor for that allocation as follows: $\text{Production Factor} = \text{Safe yield at the confluence} / \text{yield at the point of diversion}$.

(b) For any depletive diversion at or below the confluence of the Raritan and Millstone Rivers, the Production Factor shall be considered to be unity (1.0).

(c) The total daily allotment charge set forth in N.J.A.C. 7:11-2.7 shall be multiplied by the production factor for a given allocation.

Recodified from 7:11-2.6 by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Recodified from 7:11-2.7 and amended by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

In (c), changed N.J.A.C. reference. Former section recodified to N.J.A.C. 7:11-2.9.

Amended by R.2001 d.208, effective June 18, 2001 (operative July 1, 2001).

See: 32 N.J.R. 4424(a), 33 N.J.R. 2098(a).

In (a), added "as follows: $\text{Production Factor} = \text{Safe yield at the confluence} / \text{yield at the point of diversion}$."

Recodified from N.J.A.C. 7:11-2.8 and amended by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

In (a), substituted "the" for "any upstream" following "the inverse ratio between"; in (c), amended the N.J.A.C. reference. Former N.J.A.C. 7:11-2.9, Annual Demand Charge, recodified to N.J.A.C. 7:11-2.10.

7:11-2.10 Annual Demand Charge

The Annual Demand Charge for a given allocation shall be computed by multiplying the daily allotment charge by

365. Payment shall be made in equal monthly statements as billed.

Recodified from 7:11-2.7 by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Recodified from 7:11-2.8 by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Former section recodified to N.J.A.C. 7:11-2.10.

Recodified from N.J.A.C. 7:11-2.9 by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Former N.J.A.C. 7:11-2.10, Standby service, recodified to N.J.A.C. 7:11-2.11.

7:11-2.11 Standby service

(a) "Standby service" means the supply of water from the System, to the extent from time to time available, in excess of aggregate uninterruptible service, for certain occasional uses, such as fire protection or other emergencies, natural or otherwise, which a System water user is authorized to withdraw pursuant to a contract. Such user shall pay a monthly standby charge instead of a demand charge, but shall in all other respects comply with the rules for the use of water from the Delaware and Raritan Canal-Spruce Run/Round Valley Reservoirs System.

(b) The New Jersey Water Supply Authority reserves the right to revoke such standby service classification at any time on 30 days written notice to the user.

(c) Such revocation shall not prejudice the right of the user to submit an application for normal water use either prior to or following the effective date of revocation.

Amended by R.1985 d.402, effective August 5, 1985 (operative October 1, 1985).

See: 17 N.J.R. 11(a), 17 N.J.R. 1879(a).

"days" substituted for "days".

Amended by R.1989 d.310, effective June 5, 1989 (operative July 1, 1989).

See: 21 N.J.R. 103(a), 21 N.J.R. 1527(a).

"Standby service" more fully defined at (a).

Recodified from 7:11-2.8 by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Recodified from 7:11-2.9 by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Former section recodified to N.J.A.C. 7:11-2.11.

Recodified from N.J.A.C. 7:11-2.10 by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Former N.J.A.C. 7:11-2.11, Standby charge, recodified to N.J.A.C. 7:11-2.12.

7:11-2.12 Standby charge

(a) A user classified under standby service, as provided in N.J.A.C. 7:11-2.11, shall pay a monthly minimum charge based on the capacity of the user's withdrawal system as specified below. Said purchaser shall also pay for all water withdrawn during the month in excess of such monthly standby charge, based on charges as set forth under N.J.A.C. 7:11-2.3, 2.4, 2.5, and 2.6.

4. Meeting with contractual customers and Division of Ratepayer Advocate: After sending official notice to the contractual water customers and the Department of the Treasury, Division of Ratepayer Advocate, regarding the proposed rate adjustment, Authority staff shall schedule a meeting to occur within 45 days with representatives from the contractual water customers and the Division of Rate-

payer Advocate in order to present and explain the proposal.

i. At that time, contractual water customers and the Division of Ratepayer Advocate, will be invited to submit written questions which shall be put into the hearing record and which will be answered by Authority staff at the public hearing.

ii. In order to be answered at the public hearing, such questions must be received by the Authority no later than 15 days prior to the public hearing. The Authority staff will make every reasonable effort to answer those questions received later than 15 days prior to the public hearing at the time of the hearing. All questions will be answered as part of the hearing record at the time of the hearing or as indicated at (a)5vi below.

5. Public hearing: After meeting with the contractual customers and after giving sufficient opportunity for submission of written questions on the proposed rate adjustment, a public hearing shall be held, at which one or more members of the Authority shall serve as hearing officer(s). The public hearing agenda shall include, but not be limited to, the following:

i. Opening statement by the hearing officer(s);

ii. Staff answers to the questions raised prior to the hearing by the contractual water customers and Division of Ratepayer Advocate;

iii. Oral statements, written statements and any supporting evidence are to be presented and entered into the record by all interested parties including the contractual water customers, the Division of Ratepayer Advocate, intervenors who are judged by the hearing officer(s) to meet the criteria established in (a)5iv below, and any other party of interest;

iv. Requests for intervention for purposes of directing questions to the staff as delineated under (a)5v below;

(1) Any person other than a contractual water customer who is substantially and specifically affected by the proposed rate adjustment may move either in writing prior to the public hearing or orally during the public hearing to intervene in the proceedings for purposes of directing questions to the staff, as delineated under (a)5v below.

(2) Anyone seeking to intervene must identify themselves as well as the manner in which he/she will be affected. The hearing officer(s) will then either approve or deny the request.

(3) The Department of the Treasury, Division of Ratepayer Advocate, shall be deemed a qualified intervenor for purposes of the public hearing.

v. Questions by contractual water customers and qualified intervenors; and

(1) Agenda item (a)5iii above provides for the submission of oral statements, written statements and any supporting evidence by all interested parties.

(2) In addition, under this agenda item all contractual water customers and qualified intervenors may question the staff on any aspect of, the need for, the

basis of or any provision of the proposed rate adjustment. Follow up questions relative to the answers of the staff may also be directed to the staff during the public hearing.

vi. Responses from staff.

(1) In the event that a response cannot be immediately given at the hearing, then a written response shall be prepared within 10 working days after the public hearing, and a copy of that written response shall be provided to all contractual water customers, the Division of Ratepayer Advocate, and attendees at the hearing and made a part of the hearing record.

(2) Within 10 working days after receipt of the answer, contractual water customers, the Division of Ratepayer Advocate, and attendees will be permitted to respond in writing to the answers of the staff for the record.

6. Hearing record: The hearing record shall remain open for at least 25 working days after the public hearing in order to allow additional written comments to be submitted.

7. Hearing Officer's Report: After the hearing record is closed, a hearing officer's report, which shall be based solely on the record of the proceedings, and which shall include findings of fact and specific responses to all issues and questions raised during the public hearing proceedings, shall be prepared and submitted to the Authority prior to the Authority taking final action on the proposal.

R.1984 d.109, eff. April 2, 1984.

See: 15 N.J.R. 1311(a), 16 N.J.R. 708(a).

Amended by R.1985 d.402, effective August 5, 1985 (operative October 1, 1985).

See: 17 N.J.R. 11(a), 17 N.J.R. 1879(a).

"after" substituted for "of".

Amended by R.1989 d.310, effective June 5, 1989 (operative July 1, 1989).

See: 21 N.J.R. 103(a), 21 N.J.R. 1527(a).

Reference made to Sales Bases; reworded (a)4 regarding scheduling a meeting within 45 days; in (a)4.ii., deadline for receipt of questions changed from 45 to 15 days prior.

Recodified from 7:11-2.11 by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Amended by R.1995 d.291, effective June 5, 1995.

See: 26 N.J.R. 4907(a), 27 N.J.R. 2205(a).

Substituted "Division" for "Office" and "Ratepayer" for "Rate payer" throughout.

Recodified from 7:11-2.12 by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Changed N.J.A.C. references throughout the section. Former section recodified to N.J.A.C. 7:11-2.14.

Recodified from N.J.A.C. 7:11-2.13 by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Former N.J.A.C. 7:11-2.14, Special User Rates: Spruce Run/Round Valley Reservoirs System, recodified to N.J.A.C. 7:11-2.15.

Case Notes

Regulation upheld as consistent with statutes enacted to protect, enhance and husband water resources; imposition of charges for nondepletive water use is not a taking of private property without just compensation. *Johns-Manville Sales Corp. v. New Jersey Water Supply Authority*, 211 N.J.Super. 315, 511 A.2d 1194 (App.Div.1986).

7:11-2.15 Special user rates: Spruce Run/Round Valley Reservoirs System

Where the water withdrawn within the Raritan River Basin System is returned to the System at a point reasonably considered to be in the near vicinity of the point of withdrawal, substantially undiminished in quantity and not substantially degraded in quality, all as determined by the New Jersey Water Supply Authority, the purchaser shall only pay at the rate specified under the General Rate Schedule for Operations and Maintenance as set forth at N.J.A.C. 7:11-2.3, as applied to the daily allotment. The annual Demand Charge for such use shall be determined by multiplying the daily allotment charge by 365.

Amended by R.1985 d.402, effective August 5, 1985 (operative October 1, 1985).

See: 17 N.J.R. 11(a), 17 N.J.R. 1879(a).

"and not" substituted for "or".

Amended by R.1989 d.310, effective June 5, 1989 (operative July 1, 1989).

See: 21 N.J.R. 103(a), 21 N.J.R. 527(a).

Title of General Rate Schedule changed to General Rate Schedule for Operations and Maintenance.

Recodified from 7:11-2.12 by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Recodified from 7:11-2.13 and amended by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Changed N.J.A.C. references. Former section recodified to N.J.A.C. 7:11-2.15.

Recodified from N.J.A.C. 7:11-2.14 and amended by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Substituted "System" for "as supported by releases from Spruce Run and Round Valley Reservoirs," following "Raritan River Basin" and substituted "the System" for "the stream channel" preceding "at a point reasonably considered". Former N.J.A.C. 7:11-2.15, Short term user rate, recodified to N.J.A.C. 7:11-2.16.

7:11-2.16 Short-term user rate

"Short-term service" means the supply of water from the System, to the extent from time to time available, in excess of aggregate uninterruptible service, for certain interim, interruptible, non-guaranteed or short-term uses, such as growing agricultural or horticultural products or meeting extraordinary requirements in consumer demand for potable or industrial water, which a System water purchaser is authorized to withdraw pursuant to a contract. Such purchaser shall pay at the rate specified under the General Rate Schedule for Operations and Maintenance as set forth at N.J.A.C. 7:11-2.3, the applicable Debt Service Assessments as set forth at N.J.A.C. 7:11-2.4, the applicable Capital Fund Component as set forth at N.J.A.C. 7:11-2.5 and the applicable Source Water Protection Fund Component as set forth in N.J.A.C. 7:11-2.6 as applied to the total water actually diverted during any month.

Amended by R.1984 d.109, eff. April 2, 1984.

See: 15 N.J.R. 1311(a), 16 N.J.R. 708(a).

Section recodified from N.J.A.C. 7:11-2.12.

Amended by R.1988 d.265, effective June 6, 1988.

See: 20 N.J.R. 144(a), 20 N.J.R. 1286(a).

Added "basis".

Amended by R.1989 d.310, effective June 5, 1989 (operative July 1, 1989).

See: 21 N.J.R. 103(a), 21 N.J.R. 1527(a).

"Short term service" defined replacing references to D and R Canal-Spruce Run/Round Valley Reservoirs System.

Recodified from 7:11-2.13 and amended by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Recodified from 7:11-2.14 and amended by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Changed N.J.A.C. references. Former section recodified to N.J.A.C. 7:11-2.16.

Recodified from N.J.A.C. 7:11-2.15 and amended by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Inserted "and the applicable Source Water Protection Fund Component as set forth in N.J.A.C. 7:11-2.6" following "N.J.A.C. 7:11-2.5". Former N.J.A.C. 7:11-2.16, Late payment interest charge, recodified to N.J.A.C. 7:11-2.17.

7:11-2.17 Late payment interest charge

Payments are due within 30 days of the billing date. All payments for service which are not made by the due date therefor and any other sums required to be paid to the Authority pursuant to a contract shall bear interest at a per annum rate equal to the prime rate, as from time to time established by First Union Bank as its prime rate (with any changes in such prime rate to be effective on any date that such rate is changed) plus two percent. The late payment charge is to be calculated from the date when the bill is payable until the actual date of payment.

Amended by R.1984 d.109, eff. April 2, 1984.

See: 15 N.J.R. 1311(a), 16 N.J.R. 708(a).

Section recodified from N.J.A.C. 7:11-2.13.

Amended by R.1989 d.310, effective June 5, 1989 (operative July 1, 1989).

See: 21 N.J.R. 103(a), 21 N.J.R. 1527(a).

Interest charged changed from prime plus two with cap of 18 percent to prime as established by Citibank, N.A. plus two with no cap and effective the day the rate changes.

Recodified from 7:11-2.14 by R.1994 d.306, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5742(a), 26 N.J.R. 2595(a).

Recodified from 7:11-2.15 by R.1997 d.230, effective June 2, 1997 (operative July 1, 1997).

See: 28 N.J.R. 5130(a), 29 N.J.R. 2551(b).

Recodified from N.J.A.C. 7:11-2.16 and amended by R.2002 d.177, effective June 3, 2002 (operative July 1, 2002).

See: 33 N.J.R. 4213(a), 34 N.J.R. 1902(b).

Substituted "First Union Bank" for "Citibank, N.A." following "as from time to time established by".

SUBCHAPTER 3. RULES FOR THE USE OF WATER FROM THE DELAWARE AND RARITAN CANAL AND SPRUCE RUN/ROUND VALLEY RESERVOIR SYSTEM

7:11-3.1 Application for water supply

Application for withdrawal of water from the Delaware and Raritan Canal, or from the flow of the Raritan River or its tributaries as maintained or replaced by releases from the Spruce Run Reservoir or the Round Valley Reservoir, or application for withdrawal of water directly from either or both reservoirs shall be submitted to the New Jersey Water Supply Authority on an "Application for Water Supply" form, copies of which will be furnished by the New Jersey Water Supply Authority upon request.

7:11-3.2 Public hearing

(a) In accordance with N.J.S.A. 58:1B-5, 58:22-9 and 13:13-12.9, a public hearing shall be held on each application before the New Jersey Water Supply Authority, except that the New Jersey Water Supply Authority may waive this requirement in the case of an application for a quantity less than 500,000 gallons per day.

(b) The applicant shall present testimony and respond to objectors and other interested parties at the public hearing required by (a) above relevant to the application for water supply including, but not limited to:

1. Justification by the applicant of the public interest and necessity involved in the proposed diversion;
2. Identification of the applicant's water supply facilities which are planned to use the surface water diverted from the Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir System;
3. Certification of the proper and safe construction of all of applicant's water supply facilities and equipment; and
4. Description of the applicant's ability to maintain the sanitary conditions of the source of water diverted from the Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir System.

(c) All costs and expense in connection with public hearing, including the cost of legal advertising and stenographic transcripts, shall be paid by the applicant.

7:11-3.3 Water use agreement

(a) Water shall be withdrawn from the Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir System only in accordance with the terms of a formal agreement, to which this subchapter shall be attached and made a part thereof, between the New Jersey Water Supply Authority and the user.

(b) The agreement shall be executed by the user within 60 days after transmittal by the New Jersey Water Supply Authority, otherwise the application and approval shall be null and void.

Case Notes

Properly run landfill; no basis for compensation claim. *Rizzi v. New Jersey Department of Environmental Protection*, 93 N.J.A.R.2d (EPE) 108.

Homeowners' claim would be granted despite contention that they sold home without obtaining required appraisal figure and without offering it for sale according to formula set in regulation. *Allen v. Department of Environmental Protection*, 93 N.J.A.R.2d (EPE) 101.

7:11-3.4 Rates, charges and debt service assessments

The rates, charges and debt service assessments to be applied to water supplied from the Delaware and Raritan Canal or to water sustained or replaced by releases from the Spruce Run/Round Valley Reservoir, or to withdraw directly from either or both of the reservoirs, shall be the most current rates, charges and debt service assessments established in the "Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoir System", N.J.A.C. 7:11-2.

7:11-3.5 Payments

(a) The user shall pay the New Jersey Water Supply Authority for all raw water withdrawn from the Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir System in accordance with the rates and provisions set forth in the Rate Schedule in effect on date of execution of the water use agreement and as modified from time to time in accordance with the provisions of N.J.A.C. 7:11-2.10.

(b) The user shall pay to the New Jersey Water Supply Authority a total annual demand charge computed by multiplying the quantity specified in the water use agreement for 24-hour withdrawal, known as the daily allotment, by 365.

(c) A user shall pay the New Jersey Water Supply Authority only for the cost of operation and maintenance on an annual demand charge basis provided that the water withdrawn downstream of the Spruce Run/Round Valley Reservoir System is returned to the stream channel substantially undiminished in quantity and quality at a point considered by the New Jersey Water Supply Authority to be in the near vicinity of the point of withdraw.

(d) Until the total water supply capacity of the Spruce Run/Round Valley Reservoir System is allocated by contract, the New Jersey Water Supply Authority may allow interim, short-term use of the uncommitted capacity of the Raritan River and its tributaries downstream of the Spruce Run/Round Valley Reservoir System on a nonguaranteed, annual interruptible basis to support the growing of agricultural and horticultural products provided that short-term users shall pay the cost of operations and maintenance for the actual amount of water diverted by the short-term user during any month.

(e) Payments shall be made monthly as billed, at such place as the New Jersey Water Supply Authority may designate.

7:11-3.6 Equivalent sustained supply for Spruce Run/Round Valley Reservoir System (Raritan Basin)

(a) In operating the Spruce Run/Round Valley Reservoir System to augment the Raritan Basin natural stream flow during periods of low runoff, optimum dependable supply is attained at the confluence of the Millstone and Raritan

Rivers where the combined flow from the tributaries of the Raritan River above that point becomes effective. Therefore, each application for the diversion, withdrawal or allocation of water from the Raritan River downstream of the Spruce Run/Round Valley Reservoir System is to be evaluated, and differentiation in rates and charges may be made, on the following basis:

1. Quantities of water to be supplied;
2. Distance between the water supply facility and the point of diversion;
3. Cost to the New Jersey Water Supply Authority of making the water available;
4. Actual location where the water will be used;
5. Character of the use of the water; and
6. Other factors related to the optimum dependable water supply from the Spruce Run/Round Valley Reservoir System as deemed appropriate by the New Jersey Water Supply Authority.

7:11-3.7 Peak demand

(a) Contract allocation will be made in terms of million gallons per day.

(b) The maximum permitted withdrawal rate, shall be specified by the New Jersey Water Supply Authority in the water use agreement.

7:11-3.8 Production factor: Spruce Run/Round Valley Reservoir System (Raritan Basin)

(a) The inverse ratio between each daily allocation and its equivalent in sustained supply at the confluence of the Millstone and Raritan Rivers is expressed as the Production Factor for such allocation. The annual Demand Charge for water to be withdrawn at or below the confluence of the Raritan and Millstone Rivers (Basic Confluence Charge), multiplied by the Production Factor for such given allocation, will determine the prevailing charge for such allocation.

(b) Where the water withdrawn within the Raritan River Basin, as supported by releases from Spruce Run/Round Valley Reservoir System, is returned by the user to the stream channel substantially undiminished in quantity and quality at a point considered to be in the near vicinity of the point of withdrawal, all as determined by the New Jersey Water Supply Authority, the Production Factor shall be considered to be unity (1.0).

7:11-3.9 Period of agreement

(a) The effective date, period of agreement, and date of commencement of charges shall be set forth in the water use agreement to be executed in accordance with N.J.A.C. 7:11-3.3 and be consistent with terms and conditions for

diversion set forth by the New Jersey Water Supply Authority.

(b) Unless otherwise specified in the water use agreement, the date of commencement of charges shall be the first day following completion of construction of the withdrawal system, but in no case later than nine months after the date of approval of the water agreement by the New Jersey Water Supply Authority.

(c) At the end of the agreed upon period, the agreement shall expire, except as to those matters set forth at N.J.A.C. 7:11-3.10, 3.12 and 3.23.

7:11-3.10 Renewal

(a) If the user desires to continue withdrawal of water from the Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir System beyond the expiration date specified in the current water use agreement, the user shall submit to the New Jersey Water Supply Authority notification of intent to renew not less than 90 days in advance of the expiration date of the agreement then in force.

(b) If the user has not submitted a notification of intent to renew as provided in (a) above, the Authority shall notify the user of the expiration date of the contract. If, after such notification by the Authority, the user continues withdrawal, the charge for such withdrawal will be twice the rate per million gallons as specified in the New Jersey Water Supply Authority's Rate Schedule in effect at that time.

(c) All applications for renewal of contracts shall be decided upon by the Authority based upon the record of the public hearing held as part of the application process required pursuant to N.J.A.C. 7:11-3.2. Water users may make reference in an application for renewal to information submitted in support of a previous water use contract and shall not be required to resubmit such information.

7:11-3.11 Revocation by authority

In event that for a period of 12 consecutive months the daily average withdrawal shall not equal at least 50 percent of the quantity specified in the agreement for 24 hour withdrawal, the New Jersey Water Supply Authority may unilaterally, with five days written notice, revoke the water use agreement and require that the user submit a new application for revised lower quantity of water withdrawn from the Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir System. The new application will be processed in accordance with N.J.A.C. 7:11-3.1 and 3.2.

7:11-3.12 Temporary curtailment or suspension

In the event of an emergency, natural or otherwise, after notice and hearing, where practicable, in accordance with the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. and the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1, the Authority reserves the right to temporarily curtail or suspend the user's withdrawal of water from the system.

7:11-3.13 Strikes, natural disasters, acts of God

The New Jersey Water Supply Authority shall not be considered in default in the performance of any of its obligations to the extent the performance of any such obligations is prevented or delayed because or by reason of war, hostilities, revolution, civil commotion, strike, epidemic, accident, fire, wind, flood, explosion or embargo; or because or by reason of any law, order, proclamation, or regulation of the Government of the United States of America, or of any state of the United States of America, including the State of New Jersey, or of any authority or representative of any such Governments; or because or by reason of any act of God, whether of the same or a different nature.

7:11-3.14 Assignment

Agreement to withdraw water from the Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir System as set forth in this subchapter shall not be assigned or otherwise transferred to any other corporation, firm or person without the prior written approval of the New Jersey Water Supply Authority.

7:11-3.15 Diversion scheduling

(a) The time required for transmission of waters into the Raritan Basin and/or from the Delaware Basin to reach the user will depend on location of the purchaser's point of diversion or use, antecedent hydraulic/hydrologic conditions and magnitude of composite scheduled diversions.

(b) For the purpose of estimating such travel time the user shall by telephone, notify the New Jersey Water Supply Authority on every Monday at a time mutually agreed upon of the user's preliminary estimated daily demands for the week starting on the following Monday.

(c) When required by the New Jersey Water Supply Authority, the user shall submit in writing to the New Jersey Water Supply Authority a schedule of normal withdrawals for its point(s) of diversion.

(d) The user shall notify the New Jersey Water Supply Authority by telephone at a time mutually agreed upon and a minimum of 48 hours in advance of pending departures from a set schedule as set forth in (b) and (c) above due to plant shutdown or other causes, and in the event of emergency departure from said schedule the user shall immediately notify the New Jersey Water Supply Authority or its designated representative at such place and in such manner as the New Jersey Water Supply Authority or its designated representative may from time to time designate with confirming notices of any departures in writing.

1. The 48 hour notification requirement as it applies to the Raritan Basin (Spruce Run/Round Valley) will be evaluated in the event that the Confluence Reservoir is constructed and becomes operational.

(e) The user shall similarly notify the New Jersey Water Supply Authority or its representative indicating resumption of a normal schedule with confirming notices in writing.

(f) In the event the user fails to notify the New Jersey Water Supply Authority or its designated representative of the departure from or a return to normal schedule, and the facilities and appurtenances of the New Jersey Water Supply Authority's systems are physically or financially stressed (for example, an embankment damaged or an unnecessary pumping demand incurred), the costs of such damage or stress, in whole or in part, shall be paid by the user as determined and billed by the New Jersey Water Supply Authority.

7:11-3.16 Withdrawal limitation: Raritan Basin

During any period when water is being released from the New Jersey Water Supply Authority owned reservoir facilities for any Raritan Basin stream flow augmentation, the user shall not on any day during that period withdraw any quantity of water in excess of his advance notice of daily demand given under the procedure set forth in N.J.A.C. 7:11-3.15 (Diversion scheduling).

7:11-3.17 Excess withdrawal

(a) During the period of reservoir releases, any water withdrawn from the Raritan Basin Streams over five percent in excess of the advance notice of daily demand given by the user as required at N.J.A.C. 7:11-3.15 (Diversion scheduling) shall be paid for by the user at the rate of \$1,000.00 for each million gallons of such excess, provided however that prevailing rates shall apply in the case of overdraft for fire suppression or other catastrophe.

1. This provision has been temporarily waived by the Authority until such time as, and in the event that, the future Confluence Force Main and Confluence Reservoir are constructed and are operational.

(b) Should the withdrawal of any water from the Delaware and Raritan Canal over five percent in excess of the advance notice of daily demand given by the user as required at N.J.A.C. 7:11-3.15 (Diversion scheduling), cause the Authority to incur additional expenses for pumping or otherwise in order to satisfy contractual and/or legislative requirements, such water shall be paid for by the user at the rate of \$1,000.00 for each million gallons of such excess, provided however that prevailing rates shall apply in the case of overdraft for fire suppression or other catastrophe.

7:11-3.18 Withdrawal systems

(a) Withdrawal of raw water from any Raritan Basin streams or directly from the Spruce Run/Round Valley Reservoir System or the Delaware and Raritan Canal by the user shall be at his own cost and expense.

(b) The New Jersey Water Supply Authority grants to the user of water from the Delaware and Raritan Canal the

right to install and construct in the Canal and on adjoining Canal property at or near the point of withdrawal, and to replace, repair, operate and maintain, such apparatus, equipment, structures and facilities, all at the user's sole cost and expense, as may be necessary for withdrawal from the Canal of the raw water sold by the New Jersey Water Supply Authority, for the measurement thereof, and for the transportation thereof to the plant or plants of the user, provided that plans for the construction of such facilities have received the prior written approval of the Department and the Delaware and Raritan Canal Commission.

(c) Prior to the installation or construction of any apparatus, equipment, structures or facilities therefor, the user shall furnish to the New Jersey Water Supply Authority for its prior written approval, a plan showing in such detail as may be required by the New Jersey Water Supply Authority the proposed system for withdrawal, measurement, transportation and ultimate disposition of the water, and shall not install or construct the same until said system shall have been approved in writing by the New Jersey Water Supply Authority, and if applicable the Department and the Delaware and Raritan Canal Commission.

(d) The New Jersey Water Supply Authority also grants to the user of water from the Delaware and Raritan Canal the right of ingress over, upon and under any and all other Canal lands as may be necessary for the construction, operation, repair and maintenance of such system, after the user has received the written approval if applicable of the Department and the Delaware and Raritan Canal Commission.

(e) The New Jersey Water Supply Authority or its designated representative shall have the right at any time to examine and inspect all facilities constituting the withdrawal system.

(f) The user of water from the Delaware and Raritan Canal shall, within ten days after receipt of written demand from the New Jersey Water Supply Authority, make such repairs to its structures and facilities as, in the opinion of the New Jersey Water Supply Authority, may be required to eliminate leakage of water from, or potential damage to the Delaware and Raritan Canal.

(g) Failure of any user of water from the Delaware and Raritan Canal to make any repairs required by the New Jersey Water Supply Authority pursuant to (f) above shall allow the New Jersey Water Supply Authority to make any necessary repairs at the cost and expense of the user and the user shall pay any such repair costs to the New Jersey Water Supply Authority upon demand.

(h) The user shall make such changes in its withdrawal system as may from time to time be ordered in writing by the New Jersey Water Supply Authority.

(i) The user shall make no alterations in the approved withdrawal system without securing the prior written approval of the New Jersey Water Supply Authority.

7:11-3.19 Meter

(a) The user shall purchase or construct, install, maintain and operate, at his own sole cost and expense, in a manner satisfactory to the New Jersey Water Supply Authority, a flow meter or measuring device of a type and in a location approved by the New Jersey Water Supply Authority.

(b) The user shall have the flow meter tested for accuracy at his own sole cost and expense before installation, by a meter testing firm, and shall furnish a report of such test to the New Jersey Water Supply Authority. The user further shall have such laboratory test repeated and furnish a report of said test to the New Jersey Water Supply Authority at intervals of not less than one year and following meter repairs.

(c) Meter tests other than those set forth in (b) above may be required by the New Jersey Water Supply Authority, and payment therefor shall be at the cost and expense of the user except when report of such tests shall disclose the meter to be registering within five percent of true accuracy, in which case the cost of such test shall be paid by the New Jersey Water Supply Authority.

(d) In the case of a joint allocation to be operated through a single agent designated as the user, there shall be provided by the user, in addition to the meter at the point of withdrawal, meters to measure the distribution to each of the several parties to the allocation.

7:11-3.20 Meter failure

(a) The user shall use reasonable care that the installed flow meter or measuring device required at N.J.A.C. 7:11-3.19 is properly operating at all times.

(b) If the installed flow meter or measuring device is broken or improperly operating during any period of time, the New Jersey Water Supply Authority shall make necessary estimates or adjustments to determine the amounts of water withdrawn and to be charged for during any period of meter or measuring device failure, provided that said estimates or adjustments shall be based on the daily quantity contracted for by the user, with due consideration of the scale of plant operation before and during the breakdown period, or on such other method as the New Jersey Water Supply Authority shall determine in its discretion.

(c) In the event of repeated or prolonged failure of any meter or measuring device to operate properly, the user shall, upon Authority order, repair or replace the meter or other measuring device at the user's cost and expense.

(d) In the event of failure of the user to comply with the order set forth in (c) above within a reasonable period, the New Jersey Water Supply Authority may order suspension of withdrawal until the faulty meter or other measuring device has been repaired or replaced provided that such suspension shall not excuse the purchaser from payment of charges set forth in the New Jersey Water Supply Authority's most current Rate Schedule.

7:11-3.21 Meter readings

(a) The user shall keep a daily record of flow rates and cumulative daily water withdrawal totals and shall submit to the New Jersey Water Supply Authority each month, not later than the tenth day of the month unless otherwise approved by the New Jersey Water Supply Authority, copies of such records for the preceding month.

(b) The monthly meter readings to determine total withdrawal shall be taken by the user on the last day of each month, unless otherwise approved by the New Jersey Water Supply Authority, or if that day falls on Saturday, Sunday or a legal holiday, on the first working day thereafter.

(c) The user shall allow the New Jersey Water Supply Authority or its designated representative at any time to examine any flow meter or other measuring device and the daily records maintained pursuant to (a) above, as well as to order meter tests, repair or replacement.

7:11-3.22 Assistance to be furnished by user

The user, at his own expense, shall furnish the designated representative of the New Jersey Water Supply Authority such assistance as it may require for the purpose of examining the user's withdrawal system, making meter tests, taking samples, or performing other duties in connection with the agreement.

7:11-3.23 Indemnity

The user shall at all times defend, save, hold harmless and indemnify the New Jersey Water Supply Authority and any of its officers, agents and employees against claims for damages of whatsoever kind or nature arising in any manner or under any circumstances by reason of the action or inaction of the user, his officers, agents, representatives or employees in installing, constructing, replacing, repairing, maintaining or operating the withdrawal system, and the furnishing of water to others, whether such damage be sustained by the purchaser or by other persons or corporations which seek to hold the Authority liable.

7:11-3.24 Insurance: Use of Delaware and Raritan Canal supply

(a) All users of the Delaware and Raritan Canal water shall maintain public liability and property damage insurance on the property and facilities which constitute the user's withdrawal system operated and maintained on canal property, with an insurance company authorized to do business in the State of New Jersey, in the following minimum amounts or as otherwise required:

1. \$100,000/\$300,000 bodily injury; and
2. \$50,000 property damage, and naming the New Jersey Water Supply Authority as an "Additional insured".

(b) Certificates of such coverage shall be delivered to the New Jersey Water Supply Authority with evidence of payment of premiums thereof upon delivery to the New Jersey Water Supply Authority of the water use agreement executed by the user pursuant to this subchapter.

7:11-3.25 Water quality

(a) The water supplied from the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoir System is raw water subject to all quality variations and hazard inherent in natural streams and that the New Jersey Water Supply Authority does not guarantee the quality of the water supplied under this subchapter and no claims regarding quality variations shall be made against the New Jersey Water Supply Authority and, therefore, no claims regarding quality variations will be recognized by the New Jersey Water Supply Authority.

(b) Water withdrawn for potable use shall be treated by the purchaser, in accordance with the provisions of N.J.S.A. 58:22-9 and N.J.S.A. 13:13-12.9, in a manner satisfactory to the New Jersey Department of Environmental Protection.

7:11-3.26 Discharge into Delaware and Raritan Canal

(a) The return of water to the Delaware and Raritan Canal may be allowed only if the quality of the Delaware and Raritan Canal waters is not impaired as determined by the New Jersey Water Supply Authority.

(b) Water shall not be discharged into the Delaware and Raritan Canal except upon prior application and only in accordance with the terms and conditions of a formal written approval granted by the New Jersey Water Supply Authority.

(c) The application for discharge into the Delaware and Raritan Canal shall include all information required by the New Jersey Water Supply Authority for determination of conditions governing discharge.

7:11-3.27 Discharge structures

(a) Structures for the discharge of water into the Delaware and Raritan Canal shall be installed and maintained by the user thereof at its own sole cost and expense.

(b) Prior to the installation of discharge structures or facilities, the user shall furnish to the New Jersey Water Supply Authority a plan showing in such detail as may be required by the New Jersey Water Supply Authority the proposed discharge system, and shall not install or construct the same until said system shall have been approved in writing by the New Jersey Water Supply Authority.

(c) The user shall, within ten days after receipt of written demand from the New Jersey Water Supply Authority, make such repair to the user's discharge system as may be required to eliminate leakage of water from, or potential damage to the Delaware and Raritan Canal, or on his failure to do so, the New Jersey Water Supply Authority may make such repairs at the cost and expense of the user, which cost and expense the user shall pay on demand.

(d) The user shall make such changes in the user's discharge system as may from time to time be required by the New Jersey Water Supply Authority but shall not alter the approved installation of the system without the prior written approval of the New Jersey Water Supply Authority.

7:11-3.28 Disposition of facilities: Delaware and Raritan Canal

(a) Within 90 days after an agreement expires, any user of Delaware and Raritan Canal water shall remove from the property under the jurisdiction of the New Jersey Water Supply Authority all facilities installed by the user, and restore the property to its former condition in a manner satisfactory to the New Jersey Water Supply Authority, the Department and the Delaware and Raritan Canal Commission. On the user's failure to remove the facilities, the New Jersey Water Supply Authority may make such removal and restoration at the cost and expense of the user, which cost and expense the user shall pay on demand. The New Jersey Water Supply Authority may in its discretion, sell any facilities to help defray the cost of removal and restoration.

(b) Within 30 days after an agreement expires, the user may formally offer any or all withdrawal and related water supply facilities on the Delaware and Raritan Canal property to the New Jersey Water Supply Authority and the New Jersey Water Supply Authority may, at the Authority's discretion, accept the offered facilities in writing within 60 days. An offer of the facilities shall stay the 90 day period for removal of the facilities pending the New Jersey Water Supply Authority's acceptance or rejection of the offer.

SUBCHAPTER 4. SCHEDULE OF RATES, CHARGES AND DEBT SERVICE ASSESSMENTS FOR THE SALE OF WATER FROM THE MANASQUAN RESERVOIR WATER SUPPLY SYSTEM

7:11-4.1 General provisions

(a) The schedule of rates, charges and debt service assessments for the sale of water from the Manasquan Reservoir System established in this subchapter shall constitute the rate schedule for the Manasquan Reservoir System (rate schedule).

(b) The rates, charges and debt service costs contained in this subchapter shall be paid for raw water, withdrawn or allocated from the Manasquan Reservoir System. The rates, charges and debt service costs set forth herein shall be incorporated in all water purchase contracts.

(c) The rates, charges and debt service costs established in this subchapter provide revenue to cover the annual requirements of the Manasquan Reservoir System. These annual requirements consist of the aggregate amount required during each annual payment period to pay all operation and maintenance expenses, debt service costs and special or reserve fund requirements of the Manasquan Reservoir System.

(d) The total rate charged under this rate schedule shall include the operations and maintenance expense component under N.J.A.C. 7:11-4.3, the debt service costs under N.J.A.C. 7:11-4.4, and the Source Water Protection Fund component under N.J.A.C. 7:11-4.5.

(e) This rate schedule complements N.J.A.C. 7:11-5 which establishes rules for the use of water from the Manasquan Reservoir System.

Amended by R.2003 d.246, effective June 16, 2003 (operative July 1, 2003).

See: 35 N.J.R. 167(a), 35 N.J.R. 2653(a).

In (d), added N.J.A.C. reference.

7:11-4.2 Definitions

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

“Authority” means the New Jersey Water Supply Authority established pursuant to N.J.S.A. 58:1B-1 et seq.

“Delayed water purchase contract” means a water purchase contract entered into for uninterruptible service, commencing subsequent to the initial operation date of the Manasquan Reservoir System.

“Delayed water purchase surcharge” means any amount by which the debt service cost component of payments to be made under any delayed water purchase contract for uninterruptible service exceeds the debt service cost component payable by initial water purchasers.

“Force Majeure” means acts of God, strikes, lockouts or other industrial disturbances, orders of the Government of the United States or the State or any agency or instrumentality thereof or of any civil or military authority, acts of terrorism, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, explosions, breakage or accidents to machinery, pipelines, dams or canals, partial or entire failure of water supply, arrests, civil disturbances, acts of any public enemy, and any other causes not reasonably within the control of the party claiming inability to timely comply with its obligations.

“Initial water purchase contract” means a water purchase contract providing for uninterruptible service commencing on the initial operation date of the Manasquan Reservoir System.

“Manasquan Reservoir Intake Facility” means the location on the Manasquan River at Hospital Road in the Township of Wall, County of Monmouth, where water is diverted by the Authority from the Manasquan River to supply purchasers or for pumping to the Manasquan Reservoir System for storage.

“Manasquan Reservoir System” means the water supply system constructed by the Authority in Monmouth County, the major components of which are a 740 acre, four-billion gallon reservoir facility in Howell Township, a raw water intake facility and pump station located adjacent to the Manasquan River in Wall Township, and a five mile transmission pipeline connecting the reservoir and the intake facility, together with all component plants, structures and other real or personal property, and additions and improvements thereto.

“Point of delivery” means the location where the Manasquan Reservoir System’s delivery equipment interconnects with the purchaser’s interconnection system.

“Purchaser” means the party who contracts with the Authority to purchase water from the Manasquan Reservoir System.

“Purchaser interconnection system” means the buildings, structures, piping, valves, meters and other control apparatus and equipment, located on properties or facilities owned by the Authority, installed by or on behalf of, and owned by, the purchaser to connect purchasers’ water supply system with the Manasquan Reservoir System.

“Short-term service” means the supply of Manasquan Reservoir System water for interim or short-term uses, such as growing agricultural or horticultural products or meeting extraordinary requirements in consumer demand for potable water, provided on a non-guaranteed or interruptible basis.

“Standby service” means the supply of Manasquan Reservoir System water for certain occasional uses, such as fire protection or other emergencies, natural or otherwise.

“Uninterruptible service” means the supply of Manasquan Reservoir System water which the purchaser is authorized to continuously withdraw without interruption, for public water supply purposes.

7:11-4.3 Operations and maintenance expense component

(a) The operations and maintenance expense component per million gallons set forth in (c) below is based on estimated annual operations and maintenance expenses consisting of all current costs, obligations and expenses of, or arising in connection with, the operation, maintenance and administration of the Manasquan Reservoir System, and minor additions or improvements thereof or thereto.