

CHAPTER 11

NEW JERSEY WATER SUPPLY AUTHORITY

Authority

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

Source and Effective Date

R.1993 d.239, effective May 3, 1993.
See: 25 N.J.R. 1036(a), 25 N.J.R. 2267(a).

Executive Order No. 66(1978) Expiration Date

Chapter 11, New Jersey Water Supply Authority, expires May 3, 1998.

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).

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 Subsequently on June 6, 1983, R.1983 d.91 repealed subchapter 4 and rules concerning the Spruce Run/Round Valley reservoir complex were revised and consolidated with the Delaware and Raritan Canal general rate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). Chapter 11, New Jersey Water Supply Authority, was readopted pursuant to Executive Order No. 66(1978) as R.1993 d.239. See Source and Effective Date.

See subchapter and section levels for further amendments.

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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 fish within 100 feet of Delaware and Raritan Canal Locks.

(e) 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.

(f) 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.

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 set forth at N.J.A.C. 7:11-2.2, the Debt Service Assessments set forth at N.J.A.C. 7:11-2.3, and the Capital Fund Component set forth at N.J.A.C. 7:11-2.4. (See N.J.A.C. 7:11-2.13 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).

7:11-2.2 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:

1. All routine repairs and ordinary replacements and reconstruction of the System; all wages, salaries and other personnel costs, including costs of pension, retirement, health and other employee benefit programs; all fuel, utilities, supplies and equipment; and all supervisory, engineering, accounting, auditing, legal and financial advisory services;

2. All taxes and payments in lieu of taxes;

3. All costs of insurance for the System, including any form of self insurance (or self insurance reserves) maintained by the Authority and payment of all claims not covered by the Authority's insurance;

4. All fees and expenses incurred in connection with any Credit Facility, Reserve Account Credit Facility, the issuance of any bonds or the issuance of any other indebtedness of the Authority, and all fees and expenses of counsel, fiduciaries and others in connection with any such Credit Facility, Reserve Account Credit Facility, bonds or other indebtedness of the Authority to the extent not required to be paid out of the proceeds of such bonds or other indebtedness;

5. All amounts required to be deposited into the Rebate Fund, at the time and in the manner set forth in any investment rebate instructions or otherwise in accordance with the Internal Revenue Code;

6. All amounts required to be paid into any reserve fund established for operation and maintenance expenses;

7. Allowance for depreciation with respect to equipment and property having a depreciable life of greater than three years but less than 10 years; and

8. Any other current costs, expenses or obligations required to be paid by the Authority under the provision of any agreement or instrument relating to bonds, other indebtedness of the Authority or by law. The current sales base of 151.016 million gallons per day has been used in setting the rate listed at (b) below.

(b) General Rate Schedule for Operations and Maintenance:

Allocation Million Gallons per Day (MGD)	Rate/Million Gallons
	\$114.69

Amended by R.1986 d.187, effective May 19, 1986 (operative July 1, 1986).

See: 18 N.J.R. 17(a), 18 N.J.R. 1100(a).

Sales base changed from \$150.916 to \$151.931 and million gallons rate changed from \$81.80 to \$94.64.

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

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

Sales base changed from "151.931" to "157.312".

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).

Operations and maintenance costs defined at new (a)1 through 8 and million gallon rate increased from \$94.64 to \$102.78 at (b).

Amended by R.1990 d.294, effective June 4, 1990 (operative July 1, 1990).

See: 21 N.J.R. 3836(a), 22 N.J.R. 1755(a).

Fiscal Year 1991 rate adjustments.

Amended by R.1991 d.270, effective May 20, 1991 (operative July 1, 1991).

See: 23 N.J.R. 3676(a), 23 N.J.R. 1662(c).

Deleted (b)1 and 2. Changed the General Rate Schedule from "\$96.45" to "\$109.21" per million gallons in (b).

Amended by R.1992 d.238, effective June 1, 1992 (operative July 1, 1992).

See: 23 N.J.R. 3686(d), 24 N.J.R. 2053(a).

Fiscal Year 1993 rate adjustments.

Amended by R.1993 d.240, effective June 7, 1993 (operative July 1, 1993).

See: 24 N.J.R. 4472(a), 25 N.J.R. 2267(b).

Fiscal Year 1994 rate adjustments.

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).

7:11-2.3 Debt Service Assessments

(a) The Debt Service Assessment rate per million gallons shall be based on the amounts and schedules of payments required under a loan agreement between the Authority and the Treasurer of the State of New Jersey to pay for the bonds issued pursuant to the "Water Conservation Bond Act of 1969", P.L. 1969, c.127 (the "1969 Water Conservation Bonds") for the construction of outlet pipeline and dam rehabilitation; and the bonds sold pursuant to the "Water Supply Bond Act of 1981", P.L. 1981, c.261 (the "1981 Water Supply Bonds") for the Delaware and Raritan Canal Sediment Removal Project. It also includes the debt service on the 1988 Water System Revenue Bonds issued by the Authority.

(b) The Debt Service Assessment rate for the 1969 Water Conservation Bonds shall be based on a sales base of 150.521 million gallons per day. This Debt Service Assessment rate does not apply to Delaware and Raritan Canal customers in the Delaware River Basin.

1. 1969 Water Conservation Bond Funds:

Period	Allocation	Rate/Million Gallons
7/1/94 to 6/30/2002	Million Gallons per Day (MGD)	\$14.01

(c) 1981 Water Supply Bond funds were borrowed from the State Treasurer to retire the tax exempt commercial paper used for temporary financing of the Delaware and Raritan Canal sediment removal program. The following Debt Service Assessment rate, based on a sales base of 150.946 million gallons per day, in addition to that included in (b) above, will be applied to all customers.

Period	Allocation	Rate/Million Gallons
7/1/94 to 10/30/2006	Million Gallons per Day (MGD)	\$33.42

(d) The following Debt Service Assessment rate for the 1988 Water System Revenue Bonds, based on a sales base of 150.946 million gallons per day, in addition to that included in (b) and (c) above, will be applied to all customers:

Period	Allocation	Rate/Million Gallons
7/1/94 to 6/30/95	Million Gallons per Day (MGD)	\$57.38
7/1/95 to 6/30/98	Million Gallons per Day (MGD)	\$57.34

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).

Sales base for debt service assessment rate changed from "149,986" to "149,986"; (c) added.

Amended by R.1986 d.187, effective May 19, 1986 (operative July 1, 1986).

See: 18 N.J.R. 17(a), 18 N.J.R. 1100(a).

Substantially amended.

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

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

Substantially amended.

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).

1969 Water Conservation Bonds, rate assessment base dropped from 152.587 (MGD) to 151.768 (MGD) and rate per million gallons increased from \$13.83 to \$13.92; 1981 Water Supply Bond sales base dropped from 153.745 to 152.926 and rate per million gallons increased from \$33.15 to \$33.22; new (d) added Debt Service Assessment rate for 1988 Water System Revenue Bonds.

Amended by R.1990 d.294, effective June 4, 1990 (operative July 1, 1990).

See: 21 N.J.R. 3836(a), 22 N.J.R. 1755(a).

Fiscal Year 1991 rate adjustments.

Amended by R.1991 d.270, effective May 20, 1991 (operative July 1, 1991).

See: 23 N.J.R. 3676(a), 23 N.J.R. 1662(c).

Change in time period from "7/1/90" to "7/1/91" in (b)1. Change in sales base from "152.292" to "152.226"; change in time period from "7/1/90" to "7/1/91"; change in Rate/Million Gallon from "\$33.28" to "\$33.23" in (c). Change in sales base from "152.292" to "152.226";

change in time periods from "7/1/90" to "7/1/91" and "6/30/94" to "6/30/95"; change in Rate/Million Gallon from "\$44.97" to "\$44.99", "\$55.04" to "\$55.07" and "\$56.88" to "\$56.91" in (d).

Amended by R.1992 d.238, effective June 1, 1992 (operative July 1, 1992).

See: 23 N.J.R. 3686(d), 24 N.J.R. 2053(a).

Fiscal Year 1993 rate adjustment.

Amended by R.1993 d.240, effective June 7, 1993 (operative July 1, 1993).

See: 24 N.J.R. 4472(a), 25 N.J.R. 2267(b).

Fiscal Year 1994 rate adjustments.

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).

7:11-2.4 Capital Fund Component

(a) The Capital Fund Component is to provide for current funding of major annual maintenance and repairs of the existing facilities at a total amount of \$1,500,000 to \$2,000,000 per year. The total annual amount funded by the Capital Fund Component may be adjusted periodically for inflation; however, all capital projects beyond this amount and any enhancements or additions to the System shall be financed through the issuance of long-term debt.

(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

Period	Allocation	Rate/Million Gallons
7/1/94 to 6/30/95	Million Gallons per Day (MGD)	\$10.00
7/1/95 to 6/30/96	Million Gallons per Day (MGD)	\$15.00
7/1/96 to 6/30/98	Million Gallons per Day (MGD)	\$20.00
7/1/98 to 6/30/99	Million Gallons per Day (MGD)	\$25.00

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).

7:11-2.5 Daily allotment charge

(a) Effective on the date of commencement of charges as specified in the water use agreement, and except for special use described in N.J.A.C. 7:11-2.13, 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. 7:11-2.2, the applicable Debt Service Assessment as described in N.J.A.C. 7:11-2.3, and the Capital Fund Component as described in N.J.A.C. 7:11-2.4.

2. Water diverted, withdrawn or allocated from the Raritan River Basin as supported by Spruce Run/Round Valley Reservoir water releases shall be modified by the

appropriate Production Factor as specified in N.J.A.C. 7:11-2.7.

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).

7:11-2.6 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 "differentation".

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).

7:11-2.7 Production Factor

(a) For any depletive diversion at any location above the confluence of the Millstone and Raritan Rivers, the inverse ratio between any upstream allocation and its equivalent in sustained supply at the confluence is expressed as the Production Factor for that allocation.

(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. 7:11-2.4 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).

7:11-2.8 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).

7:11-2.9 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).

7:11-2.10 Standby charge

(a) A user classified under standby service, as provided in N.J.A.C. 7:11-2.9 above, 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. 7:11-2.2, 2.3 and 2.4.

Note: MGD = million gallons daily;
GPM = gallons per minute.

1. For Delaware and Raritan Canal Standby Contracts within the Delaware River Basin:

Maximum withdrawal capacity
Each 1 MGD (700 GPM) or
fraction thereof.

Charge per month
\$114.69 plus annual debt service
assessment rates for 1981 Water
Supply Bonds, 1988 Water
System Revenue Bonds and
Capital Fund Component.

2. For Standby Contracts within the Raritan River Basin:

Maximum withdrawal capacity
Each 1 MGD (700 GPM) or
fraction thereof.

Charge per month
\$114.69 plus annual debt service
assessment rates for 1969 Water
Conservation Bonds, 1981 Wa-
ter Supply Bonds, 1988 Water
System Revenue Bonds and
Capital Fund Component.

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).

Deleted "debt service rate when assessed".

Amended by R.1986 d.187, effective May 19, 1986 (operative July 1, 1986).

See: 18 N.J.R. 17(a), 18 N.J.R. 1100(a).

Charges raised from \$81.80 to \$94.64 per month.

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

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

Added FY89 Debt Rate Stabilization Fund.

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).

References made to 1981 Water Supply Bonds, 1988 Water System Revenue Bonds and 1969 Water Conservation Bonds; rate change from \$94.64 to \$102.78.

Amended by R.1990 d.294, effective June 4, 1990 (operative July 1, 1990).

See: 21 N.J.R. 3836(a), 22 N.J.R. 1755(a).

Fiscal Year 1991 rate adjustments.

Amended by R.1991 d.270, effective May 20, 1991 (operative July 1, 1991).

See: 23 N.J.R. 3676(a), 23 N.J.R. 1662(c).

Deleted (a)1i and ii; changed Charge per month from "96.45" to "109.21".

Deleted (a)2i and ii; changed Charge per month from "96.45" to "109.21".

Amended by R.1992 d.238, effective June 1, 1992 (operative July 1, 1992).

See: 23 N.J.R. 3686(d), 24 N.J.R. 2053(a).

Fiscal Year 1993 rate adjustment.

Administrative Correction to (a)2.

See: 24 N.J.R. 4518(a).

Amended by R.1993 d.240, effective June 7, 1993 (operative July 1, 1993).

See: 24 N.J.R. 4472(a), 25 N.J.R. 2267(b).

Fiscal Year 1994 rate adjustment.

Recodified from 7:11-2.9 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).

7:11-2.11 Rate adjustment

(a) The New Jersey Water Supply Authority reserves the right to review and revise the Schedule from time to time by the establishment of a new Schedule promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and any rules promulgated thereto.

1. A purchaser shall be notified of such changes not less than six months in advance of the effective date of such revision pursuant to N.J.A.C. 7:11-2.12.

2. Adjustments made under this section shall be subject to public hearing and all other requirements of N.J.A.C. 7:11-2.12.

3. Any contract for the sale of water shall be subject to any adjustment resulting from this review.

(b) The New Jersey Water Supply Authority reserves the right to review the sales bases from time to time to make adjustments, if necessary, in the Schedule. Any such adjustments shall be promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and any rules promulgated thereto.

1. If any adjustment is required, at least six months notice in advance of the effective date of such revision shall be provided to all purchasers pursuant to N.J.A.C. 7:11-2.12.

2. Adjustments made under this section shall be subject to public hearing and all other requirements of N.J.A.C. 7:11-2.12.

3. Any contract for the sale of water shall be subject to any adjustment resulting from this review.

(c) Contracts for new or additional water sales after July 1, 1983 shall contain provisions requiring the retroactive payment of a full proportionate share of the total annual Debt Service Assessment payments made by the New Jersey Water Supply Authority to the State Treasurer for the 1958 Bonds, the 1969 Bonds and the 1981 Bonds during the period from July 1, 1983 to the effective date of any new contract.

1. The new contract shall require that the total retroactive amount is to be paid in equal monthly increments over at least a 10-year period, or until the scheduled date by which the Authority will have completed payments to the State Treasurer with respect to the 1981 Water Supply Bonds, whichever is longer.

2. For each year after the date of a new contract, the New Jersey Water Supply Authority will credit preexisting users with a proportionate share of the annual retroactive amount paid by any new user.

(d) Contracts for new or additional water sales after July 1, 1989 shall also contain provisions requiring the retroactive payment of a full proportionate share of the total annual Debt Service Assessment payments made by the New Jersey Water Supply Authority to its bond holders during the period from July 1, 1989 to the effective date of any new contract.

1. The new contract shall require that the total retroactive amount is to be paid in equal monthly increments over at least a 10-year period, or until the scheduled date by which the Authority will have completed payments to its bond holders with respect to the 1988 Water System Revenue Bonds, whichever is longer.

2. For each year after the date of a new contract, the New Jersey Water Supply Authority will credit pre-existing users with a proportionate share of the annual retro-active amount paid by any new user.

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

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

Cross-references to N.J.A.C. 7:11-2.11 added.

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).

"such" substituted for "said".

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).

In (a) and (b) references regarding the Authority's adjustments made from time to time and new (d) added regarding contracts for new or additional water.

Recodified from 7:11-2.10 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).

7:11-2.12 Procedures for rate adjustments

(a) Prior to adopting an adjustment in the Schedule or the Sales Bases established in this Subchapter, the Authority shall comply with the following ratemaking procedures and schedule:

1. Official notice: Official notice and an explanation outlining the need for the proposed adjustment to the Schedule or the Sales Bases shall be given to all contractual water customers; the Department of the Public Advocate, Division of Rate Counsel; and other interested parties at least six months prior to the proposed effective date.

2. Supporting documents and financial records: All appropriate supporting documents and financial records of the Authority in support of the proposed adjustment shall either be supplied to all contractual water customers; the Department of the Public Advocate, Division of Rate Counsel; and other interested parties upon request, or shall be made available for review at the Authority's offices in Clinton, New Jersey at the time official notice of the proposed rate adjustment is given. This information shall be deemed to be part of the record of the proceedings for purposes of preparing the hearing officer's report required under (a)7 below.

3. Requests for additional information: The contractual water customers and the Department of the Public Advocate, Division of Rate Counsel shall be afforded the opportunity to submit written questions and requests for additional data prior to the time of the meeting required under (a)4 below. The Authority staff shall provide written answers to the questions and supply the additional data requested prior to the meeting.

4. Meeting with contractual customers and the Public Advocate, Division of Rate Counsel: After sending official notice to the contractual water customers and the Public Advocate, Division of Rate Counsel, 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 Public Advocate's office in order to present and explain the proposal.

i. At that time, contractual water customers and the Public Advocate, Division of Rate Counsel, 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 the Public Advocate, Division of Rate Counsel;

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 Public Advocate, Division of Rate Counsel, 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 Public Advocate, Division of Rate Counsel, 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 Public Advocate, Division of Rate Counsel, and attendees at the hearing and made a part of the hearing records.

(2) Within 10 working days after receipt of the answer, contractual water customers, the Public Advocate, Division of Rate Counsel, 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).

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).

7:11-2.13 Special user rates: Spruce Run/Round Valley Reservoirs System

Where the water withdrawn within the Raritan River Basin, as supported by releases from Spruce Run and Round Valley Reservoirs, is returned to the stream channel 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. 7:11-2.2, 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).

7:11-2.14 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. 7:11-2.2, the applicable Debt Service Assessments as set forth at N.J.A.C. 7:11-2.3 and the applicable Capital Fund Component as set forth at N.J.A.C. 7:11-2.4 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).

7:11-2.15 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 Citibank, N.A. 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).

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

Authority

N.J.S.A. 13:13-12.9 and N.J.S.A. 58:1B-7.

Source and Effective Date

R.1987 d.228, effective May 18, 1987.

See: 18 N.J.R. 1330(a), 19 N.J.R. 868(a).

Historical Note

All provisions of this subchapter became effective January 1, 1975 as R.1974 d.363. See: 6 N.J.R. 428(a), 7 N.J.R. 50(a). 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.

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.

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

Authority

N.J.S.A. 58:1B-1 et seq., specifically 58:18-7.

Source and Effective Date

R.1990 d.293, effective June 4, 1990 (operative July 1, 1990).
See: 21 N.J.R. 3838(a), 22 N.J.R. 1756(a).

Historical Note

This subchapter was originally adopted pursuant to authority of N.J.S.A. 13:1B-47 et seq. and N.J.S.A. 58:20-1 et seq. Amendments

were filed and became effective on January 18, 1979 as R.1979 d.31. See: 10 N.J.R. 231(a), 11 N.J.R. 64(b). Further amendments became effective on December 20, 1982 (to be operative on January 1, 1983) as R.1982 d.455. See: 14 N.J.R. 681(a), 14 N.J.R. 1449(b). Subsequently on June 6, 1983, R.1983 d.191 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).

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 expenses component under N.J.A.C. 7:11-4.3, and the debt service costs under N.J.A.C. 7:11-4.4.

(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.

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, wash-outs, 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.

(b) The operation and maintenance expense component of all rates is based upon the point of delivery being located at the Authority’s Manasquan River intake facility, and any purchaser taking delivery of Manasquan Reservoir System water at a different point of delivery will be assessed an additional charge to cover additional operation and maintenance expense associated with establishment of and making delivery at such point of delivery. Such charges may include, but are not limited to, in the case of any purchaser establishing a point of delivery on the transmission line between the Manasquan River intake facility and the reservoir, an additional charge to cover the cost of pumping water to the reservoir to replace water delivered from the reservoir to such purchaser.

(c) Operations and maintenance expense component:

Effective Date	Rate/Million Gallons (based upon a 16.097 mg per day sales base)
July 1, 1994	\$349.23

Amended by R.1991 d.271, effective May 20, 1991 (operative July 1, 1991).

See: 23 N.J.R. 3678(a), 23 N.J.R. 1664(a).

Added “Effective Date” and “Rate/Million Gallons”; changed “July 1, 1990” to “July 1, 1991”; changed “(based upon a 14.905 mg per day sales base) \$345.09” to “(based upon a 16.097 mg per day sales base) \$314.75” in (c).

Amended by R.1992 d.237, effective June 1, 1992 (operative July 1, 1992).

See: 23 N.J.R. 3688(a), 24 N.J.R. 2056(a).

Fiscal Year 1993 rate adjustment.

Amended by R.1993 d.241, effective June 7, 1993.

See: 24 N.J.R. 4474(a), 25 N.J.R. 2269(a).

Fiscal Year 1994 rate adjustment.

Administrative Correction.

See: 25 N.J.R. 5956(a).

Amended by R.1994 d.307, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5744(a), 26 N.J.R. 2598(a).

7:11-4.4 Debt service costs component

(a) The debt service costs component is based upon the amount to be included for debt service costs with respect to

each annual payment period or portion thereof, and will be that amount accruing in the bond year (starting on August 1 of each calendar year and ending on the next following July 31) or corresponding portion thereof, commencing during the fiscal year (starting on July 1 of each calendar year and ending on the next following June 30) within which such annual payment period or portion thereof falls. The debt service costs include the aggregate amounts payable during the specified period for:

1. Interest accruing during such period on the bonds, but not including any interest accruing on the State loan bonds which is to be deferred and added to principal, until payment in respect of such deferred interest is to commence;
2. That portion of each required principal payment or mandatory redemption or sinking fund payment on the Authority bonds (together, “principal installment”) which would accrue during such period;
3. Such additional amounts as are required to provide a debt service coverage in accordance with the following schedule:

Twelve Month Period Beginning on	Coverage Percent of Gross Debt Service
2/1/91	105 percent
2/1/92	110 percent
2/1/93	115 percent
2/1/94	120 percent; and

4. Any amounts payable into any debt service reserve fund established for any authority bonds.

(b) The following Debt Service rates, based on a sales base of 16.097 million gallons per day, apply to all water purchasers who entered into a water purchase contract before July 1, 1990, the date upon which the Authority commenced operation of the Manasquan Reservoir System (Initial Water Purchase Contract) and began to make uninterruptible service available to the purchasers (“System Operation Date”).

Period	Rate/Million Gallons
7/1/94 to 6/30/95 (Coverage 120 percent)	\$765.75

(c) A delayed water purchase surcharge will be assessed to all water purchasers who enter into a water purchase contract for an uninterruptible service commencing subsequent to the system operation date (delayed water purchase contract). This includes a purchaser under an initial water purchase contract which provides for an increase in the amount of uninterruptible service effective subsequent to the system operation date.

(d) In place of the imposition upon any delayed water purchaser of delayed water purchaser surcharges with respect to any one or more items, a delayed water purchaser may, at the time of entry into a delayed water purchase contract, make a single lump sum payment in respect of

such items in a manner to be agreed upon between the Authority and the delayed water purchaser.

Amended by R.1991 d.271, effective May 20, 1991 (operative July 1, 1991).

See: 23 N.J.R. 3678(a), 23 N.J.R. 1664(a).

Substantial revision of (b) with the following changes: "14.905" to "16.095"; "will be applied" to "apply"; "persons" to "water purchasers"; "enter" to "entered"; "commences" to "commenced"; "begins" to "began". Added "July 1, 1990"; "Period" and "Rate/Million Gallons". Time frame under "Period" was changed from "2/1/91" to "7/1/91". All debt service rates were revised. Changed "persons" to "water purchasers" in (c).

Amended by R.1992 d.237, effective June 1, 1992 (operative July 1, 1992).

See: 23 N.J.R. 3688(a), 24 N.J.R. 2056(a).

Fiscal Year 1993 rate adjustment.

Amended by R.1993 d.241, effective June 7, 1993.

See: 24 N.J.R. 4474(a), 25 N.J.R. 2269(a).

Fiscal Year 1994 rate adjustment.

Administrative Correction.

See: 25 N.J.R. 5956(a).

Amended by R.1994 d.307, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5744(a), 26 N.J.R. 2598(a).

7:11-4.5 Payments

(a) The annual payment consists of the aggregate amount projected by the Authority to be payable to the Authority by the purchaser during each annual payment period for uninterruptible service. This is derived by multiplying the applicable rates and charges in the rate schedule in effect for the relevant annual payment period by the number of gallons available to purchaser on an annual uninterruptible service basis (subject to the provisions of the water purchase contract) and subject to adjustment to reflect:

1. Any delayed water purchaser surcharges applicable to the purchaser;
2. Any credits to allocate benefits of any delayed water purchaser surcharges to the purchaser; and
3. Other charges, credits or adjustments provided for in the water purchase contracts.

(b) The annual payment period shall commence on July 1 and end on the next ensuing June 30.

(c) The purchaser shall make quarterly water payments for uninterruptible service not later than the 10th day of January, April, July and October in each year for uninterruptible service with respect to the calendar quarter ending on the last day of the immediately preceding month. The amount of the quarterly water payments shall be derived by dividing the amount of the purchaser's annual payment or adjusted annual payment for any fiscal year by four or in such other or different required quarterly payments of which the Authority gives notice to the purchaser pursuant to the water purchase contract.

(d) The Authority will notify the purchaser not later than 30 days prior to the beginning of each annual payment period of the amount of the purchaser's annual payment for uninterruptible service and, if the Authority determines that the quarterly water payments under the water purchase contracts should be made on a basis other than in equal installments, in order to permit the Authority to meet its obligations as they become due, it will, concurrently with such notice, provide the purchaser with a schedule of the amounts of each of the quarterly water payments to be made by the purchaser.

7:11-4.6 Uninterruptible service

(a) The rates, charges and debt service assessments per mg of water set forth for the rate schedule for uninterruptible service under initial water purchase contracts for the fiscal year are based upon:

1. The projected annual requirements for the fiscal year, after deducting therefrom projected net revenues in connection with the ownership or operation of the Manasquan Reservoir System from sources other than payment for uninterruptible service except to the extent that such other revenues are to be applied to obligations not included in such projected annual requirements. Such other obligations include payments, credits or rebates to purchasers for:

- i. Delayed water purchase surcharges collected;
- ii. Compensation for any amounts charged to system water purchasers in prior fiscal years by reason of default in payment of any obligation under any water purchase contract which obligation is subsequently collected by the Authority; and
- iii. Distribution of the proceeds of surplus water sold.

(b) The rate is obtained by dividing the adjusted projected annual requirements set forth in (a)1 above by the number of mg per day of Manasquan Reservoir System water which are required by the terms of all water supply contracts for uninterruptible service during the fiscal year, multiplied by 365.

(c) The Authority may exclude for any period, for purposes of the computation in (a) and (b) above, the uninterruptible service provided in any water purchase contract if an event of default has occurred. This will not affect the Authority's right to enforce the provisions of the water purchase contract against the defaulting party; however, any payment received from a defaulting water purveyor for such uninterruptible service with respect to such period shall be rebated or credited to the non-defaulting purchasers.

(d) The purchaser will not be required to make payment to the extent that the Authority does not make water available under the terms of the contract for uninterrupted service.

7:11-4.7 Short term service

(a) The rates for short-term service shall be an amount per mg of water equal to the sum of the debt service component established in N.J.A.C. 7:11-4.4, and the operations and maintenance component established in N.J.A.C. 7:11-4.3.

(b) The monthly payment for water provided to the purchaser pursuant to short-term service shall be based upon the Manasquan Reservoir System water actually consumed at the rate per mg stated in (a) above.

(c) Payment for water provided to the purchaser pursuant to short-term service shall be made within 30 days following receipt of the Authority's invoice.

(d) Payments received in any fiscal year with respect to short-term service during such year shall not be included in actual or projected revenues for such year for purposes of determining the rates applicable to that year but shall be included in revenues for the fiscal year succeeding the year in which payment is received for purposes of determining the rates for uninterrupted service in such succeeding fiscal year.

7:11-4.8 Standby service

(a) The rates for standby service shall consist of:

1. A standby charge established in N.J.A.C. 7:11-4.9 for each month during which standby service is available equal to the capacity, in mgd per day, of the purchaser's withdrawal facilities to be served by such standby service multiplied by the rate per mg for uninterrupted service set forth in N.J.A.C. 7:11-4.3 and 4.4; and

2. A charge for water actually consumed in any month at the rate per mg of water established by the rates for short-term service as set forth in N.J.A.C. 7:11-4.7 at the time of such consumption, minus the standby charge for such month.

(b) Payment for water provided to the purchaser pursuant to standby service shall be made within 30 days following receipt of the Authority's invoice.

(c) Payments received in any fiscal year pursuant to (a)1 and 2 above shall not be included in actual or projected revenues for that year for purposes of determining the rates applicable to such year but shall be included in revenues for the fiscal year succeeding that in which payment is received for the purpose of determining the rates for uninterrupted service in the succeeding fiscal year.

7:11-4.9 Standby charge

A purchaser classified under standby service shall pay a monthly minimum charge based on the capacity of the purchaser'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. 7:11-4.3 and 4.4.

Maximum withdrawal capacity	Charge per month
Each 1 MGD (700 GPM) or fraction thereof	\$349.23 plus annual debt service assessment rate established in N.J.A.C. 7:11-4.4

Amended by R.1991 d.271, effective May 20, 1991 (operative July 1, 1991).

See: 23 N.J.R. 3678(a), 23 N.J.R. 1664(a).

Added "Maximum withdrawal capacity" and "Charge per month"; changed "345.09" to "314.75".

Amended by R.1992 d.237, effective June 1, 1992 (operative July 1, 1992).

See: 23 N.J.R. 3688(a), 24 N.J.R. 2056(a).

Fiscal Year 1993 rate adjustment.

Amended by R.1993 d.241, effective June 7, 1993.

See: 24 N.J.R. 4474(a), 25 N.J.R. 2269(a).

Fiscal Year 1994 rate adjustment.

Amended by R.1994 d.307, effective June 20, 1994 (operative July 1, 1994).

See: 25 N.J.R. 5744(a), 26 N.J.R. 2598(a).

7:11-4.10 Payments for other services

Payment for any other charges payable by reason of excessive withdrawals or otherwise, shall be made within 30 days following receipt of the Authority's invoice and shall be based upon Manasquan Reservoir System water actually consumed. The rate for excessive withdrawal shall be the rate set forth in N.J.A.C. 7:11-4.7.

7:11-4.11 Late payment interest charge

All amounts not paid when due shall be subject to a late payment charge at two percent above the prime rate of the First Fidelity Bank, N.A., prevailing on the due date, but not to exceed 18 percent per annum, from the date when due until paid.

7:11-4.12 Rate adjustments

(a) The Authority reserves the right from time to time to adopt adjustments to the rate schedule in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and this subchapter.

(b) A purchaser shall be notified of such proposed changes not less than six months in advance of the effective date of such new rates.

7:11-4.13 Procedures for rate adjustments

(a) Prior to amending the schedule of rates, charges and debt service assessments established by this subchapter, the Authority shall:

1. Provide notice and an explanation outlining the need for the proposed rate adjustment to all purchasers; the Department of the Public Advocate, Division of Rate Counsel; the Board of Regulatory Commissioners and other interested persons at least six months prior to the proposed effective date. This notice and explanation shall be deemed to be part of the record of the proceedings;

2. Provide supporting documents and financial records of the Authority, at the Authority's cost, in support of the proposed adjustment to all purchasers; the Department of the Public Advocate, Division of Rate Counsel; the Board of Regulatory Commissioners and other interested persons upon request, and make such documents and records available for review at the Authority's offices in Clinton, New Jersey at the time notice of the proposed amendment to the rates is given. These supporting documents and financial records shall be deemed to be part of the record of the proceedings for purposes of preparing the hearing officer's report required under (a)9 below;

3. Afford purchasers, the Department of the Public Advocate, Division of Rate Counsel, the Board of Regulatory Commissioners and other interested persons, the opportunity to submit written questions and requests for additional data prior to the time of the meeting required under (a)4 below. The Authority staff shall provide written answers to the questions and supply the additional data requested prior to the meeting;

4. Schedule a meeting with the purchasers, the Public Advocate, Division of Rate Counsel, the Board of Regulatory Commissioners and other interested persons, within 45 days after sending them notice of the proposed amendments to the rate schedule regarding the proposed amendments:

i. At the meeting the purchasers, the Public Advocate, Division of Rate Counsel, the Board of Regulatory Commissioners and other interested persons, will be invited to submit written questions which will be put into the hearing record and which will be answered by the Authority at the public hearing;

ii. In order to be answered at the public hearing, questions must be received by the Authority no later than 15 days prior to the public hearing. The Authority will make every reasonable effort to answer those questions received less than 15 days prior to the public hearing at the time of the hearing. All questions will be answered as part of the record and the comments and responses will be included in the hearing report prepared pursuant to (a)9 below;

5. Hold a public hearing on the proposed rate adjustment. One or more members of the Authority will serve as the hearing officer. The public hearing agenda shall include, but not be limited to:

i. An opening statement by the hearing officer;

ii. The Authority's answers to the questions raised prior to the hearing by the purchasers, the Public Advocate, Division of Rate Counsel, the Board of Regulatory Commissioners and other interested persons;

iii. Oral statements, written statements and any supporting evidence presented by interested persons; and

iv. Questions of the Authority by the purchasers, the Public Advocate, Division of Rate Counsel, the Board of Regulatory Commissioners, and any interested persons 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 Authority may also be directed to the Authority during the public hearing;

6. Attempt to answer all questions raised at the public hearing. In the event that a response cannot be immediately given at the public hearing, then a written response shall be prepared within 10 working days after the public hearing, and a copy of that written response will be provided to all contractual water purchasers, the Public Advocate, Division of Rate Counsel, Board of Regulatory Commissioners and attendees at the hearing and made a part of the hearing record;

7. Permit, within 10 working days after receipt of the answer, contractual water purchasers, the Public Advocate, Division of Rate Counsel, the Board of Regulatory Commissioners and attendees to respond in writing to the answers of the staff for the record;

8. Hold the public comment period open for at least 25 working days after the public hearing in order to allow additional written comments to be submitted; and

9. After the public comment period is closed, require a hearing officer's report, which shall include findings of fact and specific responses to all issues and questions raised during the public hearing proceedings, to be prepared and submitted to the Authority prior to the Authority taking final action on the proposal.

(b) In addition to the above requirements, the Authority will follow all the requirements for rulemaking established pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

Amended by R.1992 d.237, effective June 1, 1992 (operative July 1, 1992).

See: 23 N.J.R. 3688(a), 24 N.J.R. 2056(a).

Change title of Board of Public Utilities to Board of Regulatory Commissioners.

SUBCHAPTER 5. RULES FOR THE USE OF WATER FROM THE MANASQUAN RESERVOIR WATER SUPPLY SYSTEM

Authority

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

Source and Effective Date

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).

Subchapter Historical Note

This subchapter "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 these rules to be obsolete and allowed them to expire without readoption.

7:11-5.1 Application for water supply

Application for withdrawal of water from the Manasquan Reservoir System shall be submitted to the New Jersey Water Supply Authority (Authority) on an "Application for Water Supply" form, copies of which will be furnished by the Authority upon request. Any application for water from the Manasquan Reservoir System shall be accompanied by a water allocation permit approval from the New Jersey Department of Environmental Protection, stating the specific amount which is to be allocated to the applicant.

7:11-5.2 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.

"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.

"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 building, structures, piping, valves, meters and other control apparatus and equipment, to the extent located on properties or facilities owned by the Authority, to be installed by or on behalf of, and owned by, the purchaser to connect purchaser's 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.

7:11-5.3 Water purchase contract

(a) Water shall be withdrawn from the Manasquan Reservoir System only in accordance with the terms of this subchapter and a formal water purchase contract between the Authority and the purchaser.

(b) The water purchase contract shall be executed by the purchaser within 60 days after transmittal by the Authority; otherwise, the application for water withdrawal shall be null and void.

7:11-5.4 Rates, charges and debt service assessments

(a) The rates, charges and debt service assessments to be applied to water supplied from the Manasquan Reservoir System shall be the most current schedule of rates, charges and debt service assessments.

(b) The Authority reserves the right from time to time to adopt adjustments to the rate schedule in accordance with applicable laws and rules, including the public notice and hearing requirements and other requirements set forth in

the rate schedule. If as a result of any such adjustments the annual payment for uninterruptible service is adjusted by the Authority subsequent to the notice given as provided in the rate schedule, the Authority shall notify the purchaser of the adjustment and of any revised schedule of quarterly water payments required to reflect such adjustment.

(c) The Operation and Maintenance Expense component of all rates shall be based upon point of delivery being located at the Authority's Manasquan River intake facility and any purchaser taking delivery of Manasquan Reservoir System water at a different point of delivery will be assessed an additional charge to cover additional operation and maintenance expense associated with establishment of and making delivery at such point of delivery. Such additional charges may include, but not be limited to, in the case of any purchaser establishing a point of delivery on the transmission line between the Manasquan River intake facility and the reservoir, an additional charge to cover the cost of pumping water to the reservoir to replace water delivered from the reservoir to such purchaser.

7:11-5.5 Payments

(a) The purchaser shall pay the Authority for all raw water taken from the Manasquan Reservoir System in accordance with the most current rate schedule.

(b) The purchaser shall make quarterly water payments for uninterruptible service not later than the 10th day of January, April, July and October in each year with respect to the calendar quarter ending on the last day of the immediately preceding month.

(c) Except as provided in (d) below, payments for uninterruptible service made with respect to all quarters of the same fiscal year shall be equal whether or not:

1. The purchaser elected to utilize the optional water use schedule as defined in the water purchase contract; or
2. The purchaser actually withdraws the full amount of water available pursuant to uninterruptible service.

(d) The purchaser is not required to make payment to the extent that the Authority does not make water available under such uninterruptible service (whether by reason of rationing or otherwise) except for an event of default by the purchaser. In all other cases, purchaser's obligations under the terms of the water purchase contract are absolute and unconditional, and shall not, except as expressly provided for under the terms of the water purchase contract, be affected by fluctuations in consumptive use by purchaser's customers or by any failure by the Authority to perform its obligations under the water purchase contract or be subject to any other defense or to any reduction, whether by offset, counterclaim or otherwise except for any reductions or credits provided for in the water purchase contract or in the most current rate schedule or this subchapter.

(e) The Authority shall notify the purchaser not later than 30 days prior to the beginning of each annual payment period as defined in the rate schedule or the water purchase contract of the amount of the purchaser's annual payment for uninterruptible service and, if the Authority determines that the quarterly water payments under the water purchase contract should be made on a basis other than in equal installments, in order to permit the Authority to meet its obligations as they become due, it shall, concurrently with such notice, provide the purchaser with a schedule of the amounts of each of the quarterly water payments to be made by the purchaser.

(f) Payment for water provided to purchaser pursuant to either short-term service or standby service as defined in N.J.A.C. 7:11-5.2 or the water purchase contract, as well as for any other charges payable by reason of excessive withdrawals, shall be made within 30 days following receipt of the Authority's invoice therefore and shall be based upon Manasquan Reservoir System water actually consumed, or in the case of standby service, the demand charge referred to in the rate schedule.

(g) Payments shall be made as billed, at such place as the Authority may designate.

(h) All amounts not paid when due shall be subject to a late payment charge at two percent above the prime rate of the First Fidelity Bank, N.A., prevailing on the due date, but not to exceed 18 percent per annum, from the date when due until paid.

(i) Unless otherwise provided in the water purchase contract, any payment, notice, communication, request, reply or advice to be provided or permitted to be given, made or accepted by the Authority or purchaser to each other shall be given or be served either by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by prepaid telegram when appropriate, addressed to the party to be notified.

1. Notice deposited in the mail in the manner described in paragraph (i) above shall be conclusively deemed to be effective, from and after the expiration of three days after it is so deposited.

2. Notice given in any other manner shall be effective only if and when received by the party to be notified.

7:11-5.6 Sale of excess water

(a) The purchaser may notify the Authority that for a period of not less than 60 days nor more than one year (surplus period) specified amounts of water available to it under the uninterruptible service provided for in the water purchase contract (surplus water) will be surplus to the needs of the purchaser, which notice shall be given not less than 30 days nor more than 90 days prior to commencement of the surplus period.

(b) Following receipt of such notice, the authority shall notify each other purchaser of the availability for purchase of the surplus water (and any surplus water under any other water purchase contract) on the same basis as provided for short-term service in the most current rate schedule.

(c) To the extent that the Authority shall receive purchase requests from purchasers for surplus water (which are in addition to and not in substitution for purchases of water on a short-term service or standby service basis under existing water purchase contracts), it will use its best commercially reasonable efforts to provide such surplus water (on a pro rated basis if other surplus water is also available) to such purchasers.

(d) The Authority shall pay over to the purchaser, or credit against the amounts due or to become due from the purchaser under the water purchase contract, the amounts received from the sale of the surplus water arising under the water purchase contract after first deducting therefrom all costs and expenses (pro rated as appropriate) incurred by the Authority in carrying out this section.

7:11-5.7 Peak demand

(a) The water purchase contract shall specify the uninterrupted service which will be provided in terms of million gallons per day (mgd). This represents the maximum amount to be withdrawn in any 24 hour period except as otherwise permissible under the optional water use schedule.

(b) The maximum permitted withdrawal rate shall be specified by the Authority in the water purchase contract.

7:11-5.8 Period of contract

(a) The effective date, period of contract, and date of commencement of charges shall be set forth in the water purchase contract.

(b) The water purchase contract shall expire at the end of the specified upon period, except as to those matters set forth at N.J.A.C. 7:11-5.9 and 5.10.

7:11-5.9 Renewal

(a) If the Department of Environmental Protection approves an apportionment of Manasquan Reservoir System water to the purchaser for an additional period beyond the term of the expiring water purchase contract, the purchaser shall immediately give notice to the Authority.

(b) If the purchaser desires to continue withdrawal of water from the Manasquan Reservoir System beyond the expiration date specified in the current water purchase contract, the purchaser shall submit to the Authority notification of intent to renew not less than 90 days in advance of the expiration date of the current water purchase contract.

(c) If the purchaser has not submitted a notification of intent to renew as provided in (b) above, the Authority shall

notify the purchaser of the expiration date of the water purchase contract. If, after such notification by the Authority, the purchaser continues withdrawal, the charge for such withdrawal will be twice the rate per million gallons as specified in the Authority's rate schedule in effect at that time until the effective date of any new agreement.

7:11-5.10 Temporary curtailment or suspension of service

In the event of an emergency, natural or otherwise, and where practicable, after public notice and hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Authority may temporarily curtail or suspend the purchaser's withdrawal of water from the Manasquan Reservoir System, in which event purchaser's payment obligation shall be reduced as provided in N.J.A.C. 7:11-5.5.

7:11-5.11 Force Majeure

(a) If by reason of Force Majeure either the Authority or purchaser shall be rendered unable wholly or in part to satisfy its obligations under the water purchase contract, the obligation of that party, to the extent affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed.

(b) The party claiming to be affected by the Force Majeure shall provide the other party with written notice of the facts and circumstances of the Force Majeure and how they impact upon contract performance.

(c) The existence of an element of Force Majeure shall in no event affect the obligation of the purchaser to make the quarterly water payments and other payments required under the water purchase contract (subject to the provisions of N.J.A.C. 7:11-5.5(b)), but nothing in this subchapter shall require the purchaser to make any payment for water which the Authority does not make available to the purchaser.

7:11-5.12 Assignment

(a) Neither party to the water purchase contract may assign its contractual rights or obligations without the consent of the other party or parties entitled to the benefit of such rights or obligations except for any assignment by a purchaser under the terms of a three party water purchase contract to New Jersey-American Water Company, Inc.

(b) In the case of New Jersey-American Water Company, Inc., upon any such assignment, and the delivery to the Authority of an instrument of assumption of the liabilities of the purchaser by New Jersey-American Water Company, Inc., the purchaser shall be relieved of all further liability under the terms of the water purchase contract.

7:11-5.13 Withdrawal scheduling

(a) Prior to withdrawal of Manasquan Reservoir System water, the purchaser shall submit in writing to the Authority a schedule for the normal withdrawal of water from the Manasquan Reservoir System, presented in terms of instantaneous withdrawals of water at specified gallons per minute and gallons per daily period.

(b) If the purchaser elects to utilize the optional water use schedule, it shall submit to the Authority the water use plan required by the optional water use schedule.

(c) The purchaser shall notify the Authority 48 hours in advance of any proposed departure from said schedule or plan.

(d) If an unanticipated emergency, natural or otherwise, necessitates the withdrawal of more water than contemplated by said schedule or plan, purchaser shall promptly notify, and to the extent feasible, secure prior approval of the Authority and notify the Authority of the proposed time of resumption of normal consumption.

(e) If the purchaser fails to notify the Authority, purchaser shall reimburse the Authority for any loss or expense occasioned thereby.

7:11-5.14 Withdrawal limitation

(a) The purchaser shall not withdraw any quantity of water on any day in excess of the amount in the schedule or plan submitted to the Authority pursuant to N.J.A.C. 7:11-5.13.

(b) The purchaser shall not, without the consent of the Authority, withdraw water at rates greater, in the aggregate for all supplies provided under the water purchase contract, than the maximum gallons per minute and total gallons in any daily period, as specified in the water purchase contract. These amounts shall be appropriately adjusted to reflect fluctuations in water use permissible under the optional water use schedule.

(c) The purchaser shall not withdraw any water under short-term service provisions of the water purchase contract without first giving notice to the Authority of its proposed utilization of the short-term service, and receiving approval for such utilization from the Authority, in accordance with the procedures established in N.J.A.C. 7:11-5.13.

(d) Subject to the provisions of uninterruptible service and/or short-term service as specified in the water purchase contract, purchaser may withdraw water under standby service without prior notification to the Authority.

(e) In the event of an emergency, natural or otherwise, and, where practicable, after public notice and hearing in accordance with the Administrative Procedure Act, P.L. 1968, c.410, as amended (N.J.S.A. 52:14B-1 et seq.), the Authority reserves the right to temporarily curtail or suspend the use of the System. If the Authority determines that rationing Manasquan Reservoir System water is necessary by reason of drought conditions (the existence of which shall be determined in compliance with all applicable provisions of law) or a Manasquan Reservoir System emergency, it shall allocate all available water first to providing uninterruptible service under all water purchase contracts, without any preference or priority based on date of entry into the water purchase contract or commencement of service thereunder, at the Authority's election in accordance with the following:

1. Pro rata in accordance with the volume of water available to each system water purchaser under the uninterruptible service provided for in the relevant water purchase contract;

2. Pro rata in accordance with the volume of water actually provided each system water purchaser during the last preceding annual payment period in which rationing of water was not necessary; or

3. Upon such other basis as shall be, in the judgment of the Authority, appropriate to distribute equitably among all system water purchasers the burden of such rationing.

(f) In the event that rationing is to be imposed by reason of a Manasquan Reservoir System emergency for more than a seven day period, the Authority shall act in accordance with the requirements of the Department of Environmental Protection.

(g) If such rationing is instituted, or if in fact the Authority does not provide the amount of water called for in the water purchase contract, or advises the purchaser that it will be unable to do so, the purchaser may procure replacement water from other sources but shall nevertheless at all times be required to pay for all water available for delivery to the purchaser from the Manasquan Reservoir System on an uninterruptible service basis, except to the extent that purchaser is required, in order to obtain replacement water, to contract for more replacement water than the amount of the curtailment imposed by the Authority.

(h) Purchaser shall notify the Authority of the terms upon which it arranges for such alternate supply of water.

7:11-5.15 Withdrawal system

(a) Water shall be withdrawn from the Manasquan Reservoir System at purchaser's sole cost and expense. Title to all water supplied from the Manasquan Reservoir System shall be in the Authority up to the point of delivery, at which point title shall pass to the purchaser upon its withdrawal of such water.

(b) The Authority shall grant to the purchaser an easement for the term of the water purchase contract permitting access for the purchaser's staff and equipment upon, over and under Manasquan Reservoir System property as may be necessary to install and construct the purchaser's interconnection system at the point of delivery and on adjoining Manasquan Reservoir System property at or near the point of delivery, and to replace, repair, operate and maintain purchaser's interconnection system, all at purchaser's sole cost and expense.

(c) Purchaser shall submit its engineering plans for purchaser's interconnection system to the Authority and shall commence construction of such interconnection system as soon as final approval of such plans by the Authority. Purchaser shall allow the Authority to test the interconnection system prior to operation of the interconnection system. Failure to complete construction of the purchaser's interconnection system shall not affect the obligation of purchaser to make the quarterly water payments and the other payments provided for under the water purchase contract.

(d) The purchaser shall make no material alterations in purchaser's interconnection system without the prior written approval of the Authority.

(e) The purchaser shall make such changes in its withdrawal system as may from time to time be ordered in writing by the Authority.

(f) The Authority or its designated representative shall have the right at any time to examine purchaser's interconnection system. The purchaser shall, at its sole cost and expense, within 10 days (or such longer period as may be required by law) after receipt of written demand from the Authority, make such modifications or repairs to purchaser's interconnection system as, in the opinion of the Authority, may be required to eliminate leakage of water from, or potential damage to, the System. On purchaser's failure to do so the Authority may make such modifications and repairs and the purchaser shall reimburse the Authority promptly after demand for the Authority's cost and expense in so doing.

7:11-5.16 Meter requirements

(a) The purchaser shall purchase or construct, install, operate, maintain and repair, as part of purchaser's interconnection system, at its sole cost and expense, a flow meter or measuring device of a type and in a location approved by the Authority.

(b) The purchaser shall have said flow meter tested for accuracy at its own sole cost and expense before installation, by a testing firm approved by the Authority, and shall furnish a certified report of such test to the Authority.

(c) The purchaser shall have such test repeated and furnish a report of said test to the Authority:

1. At least once each year no later than the anniversary date of the meter installation;
2. Following meter repairs; and
3. At such other reasonable times as the Authority may reasonably request at purchaser's sole cost and expense.

(d) In the event that any test required pursuant to (c)3 above establishes that the meter does not vary more than

two percent from actual, such test shall be at the sole cost and expense of the Authority.

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

7:11-5.17 Meter readings

(a) The purchaser shall meter all water withdrawn from the Manasquan Reservoir System.

(b) Monthly meter readings shall be taken by the purchaser on the last day of each month, unless otherwise approved by the Authority, or if that day falls on Sunday or a legal holiday, on the first working day thereafter.

(c) The purchaser shall keep a daily record of flow rates and cumulative daily water withdrawal totals and shall submit to the Authority, not later than the tenth business day of each such month, copies of such records for the preceding month.

(d) The Authority or its designated representative shall have the right at any time to examine the flow meter or other measuring device and the above mentioned records, as well as to order tests pursuant to N.J.A.C. 7:11-5.16, and repairs or replacements pursuant to N.J.A.C. 7:11-5.18.

7:11-5.18 Meter failure

(a) In the event of meter malfunction involving variances greater than two percent from actual, the Authority may estimate the amounts of water actually withdrawn and base charges upon such estimates rather than meter readings, without prejudice to the right of the purchaser in the event of any dispute to pursue any legal remedy in connection therewith. Such estimates shall be based on the purchaser's average daily withdrawals, with due consideration of the scale of plant operation before and during the breakdown period, or on such other method as the Authority shall select.

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

(c) In the event of failure of the purchaser to comply with the order set forth in (b) above, the 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 applicable rate schedule.

7:11-5.19 Assistance to be furnished by purchaser

The purchaser, at his or her own expense, shall furnish the Authority such assistance as it may require for the purpose of examining the purchaser's withdrawal system, making meter tests, taking samples, or performing other duties in connection with the water purchase contract.

7:11-5.20 Water quality

(a) The water to be supplied by the Authority shall be raw, untreated water which the Authority shall supply to all system water purchasers without distinction as to source or quality of the water supplied.

(b) The Authority shall establish and maintain a system, of such design as the Authority shall, in its sole discretion, deem appropriate, to monitor the water quality of ground water and surface water from which Manasquan Reservoir System water is derived and to provide the information derived from such system to the purchaser.

(c) Water withdrawn for potable use shall be treated by the purchaser to meet the standards contained in N.J.A.C. 7:10.

7:11-5.21 Disposition of facilities

Within 90 days after termination of the water purchase contract or such longer period as may reasonably be required, the purchaser shall remove from Manasquan Reservoir System property purchaser's interconnection system and any other facilities installed by purchaser on Manasquan Reservoir System property, and shall restore said property to its former condition as nearly as may be and in a manner satisfactory in the reasonable judgment of the Authority and shall release and reconvey any easement granted pursuant to N.J.A.C. 7:11-5.15. On purchaser's failure to do so, the authority may make such removal and restoration at the sole cost and expense of the purchaser, which cost and expense the purchaser agrees to pay on demand. The Authority also reserves the option to sell purchaser's interconnection system and other facilities to assist in defraying the cost and expense of removal and restoration. Purchaser may, within 30 days after termination of the water purchase contract, submit a written offer to sell or donate such systems and/or facilities to the Authority, which the Authority shall accept or reject in writing within 60 days.