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## NEW JERSEY WATER SUPPLY AUTHORITY

### New Jersey Water Supply Authority Rules

Proposed Readoption with amendments: N.J.A.C. 7:11

Authorized by: New Jersey Water Supply Authority, Lisa P. Jackson, Chair, New Jersey Water Supply Authority, and Commissioner, Department of Environmental Protection.

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

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

DEP Docket Number:

Proposal Number: PRN

Submit written comments by {60 days after publication} to:

Oneida Cuevas, Esq.  
Attn: DEP Docket Number:  
Office of Legal Affairs  
Department of Environmental Protection  
Post Office Box 402  
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New Jersey Water Supply Authority  
1851 Route 31  
Post Office Box 5196  
Clinton, New Jersey 08809

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The New Jersey Water Supply Authority (hereafter “the Authority”) requests, but does not require, that comments be submitted on disk or CD as well as on paper. The Authority prefers Microsoft Word 6.0 or above. Macintosh™ formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter’s name and affiliation following the comment.

The proposed readoption with amendments can be viewed or downloaded from the Authority’s website at <http://www.njwsa.org>.

The agency proposal follows:

### **SUMMARY**

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

Pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the New Jersey Water Supply Authority rules, N.J.A.C. 7:11 were scheduled to expire on September 21, 2008. Pursuant to N.J.S.A. 52:14B-5.1c, timely filing of this notice of proposal extended that expiration to March 21, 2009. The Authority has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Authority, therefore, proposes to readopt these rules with amendments to N.J.A.C. 7:11-1, 7:11-3, 7:11-4 and 7:11-5.

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The Authority adjusts the rates for the Raritan Basin System at N.J.A.C. 7:11-2, and the Manasquan Reservoir System at N.J.A.C. 7:11-4, as necessary by separate rulemakings such that adjusted rates are effective at the start of the Fiscal Year (July 1).

N.J.A.C. 7:11-1, Rules for the Use of Water Supply Authority Property, pertains to the permissible uses of the property and waters under the jurisdiction of the Authority. The Authority lands and waters include the Raritan Basin System (which includes the Delaware and Raritan Canal Transmission Complex and the Spruce Run-Round Valley Reservoir Complex), the Manasquan Reservoir System and any other water supply facilities owned or operated by the State which may be acquired pursuant to any past or future bond issues including the Water Supply Bond Act of 1981, P.L. 1981, c.261.

N.J.A.C. 7:11-1.1, Scope, is proposed for amendment to incorporate specific reference to the Manasquan Reservoir System.

N.J.A.C. 7:11-1.6 contains the definitions of terms used in the New Jersey Water Supply Authority rules. The Authority proposes to amend the following definitions:

“ATV” is proposed for amendment to include diesel engines and all engine sizes for motor vehicles designed to travel over terrain which is of a type possessing between three to six rubber tires but shall not include golf carts.

“Commissioner” is proposed for amendment to add “or her” after “his” for clarity.

“Open burning” is proposed for amendment to clarify that the term is meant to exclude any furnace or combustion apparatus directed through a chimney.

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“Manasquan Reservoir System” is proposed to be added to the terms defined in Subchapter 1 since the term “Raritan Basin System” is also defined in Subchapter 1. The proposed definition is identical to the existing definition of the term in Subchapter 4. However, the Authority is proposing to add “reservoir” before “pump station” to clarify that “reservoir pump station” identifies one of two separate and distinct pump stations. One of the pump stations is housed within the raw water intake facility and is utilized for a different purpose than the reservoir pump station. The Authority is also proposing to amend the definition of the term in Subchapter 4 to include “reservoir”, as discussed below.

“Permit” is proposed for amendment to clarify that the designee of the Executive Director of the New Jersey Water Supply Authority also has the authority to issue a permit.

“Power boats” is proposed for amendment to clarify that the term applies to “electrically” powered boats rather than “battery” powered boats, to make the term consistent with technological advancements that have occurred in the boat propulsion industry.

“Small electric motors” is proposed for amendment by substituting “30 foot-pounds” for “four horse-power” to more accurately define the power output of “small electric motors.” Horse power is a term generally associated with gas powered engines.

N.J.A.C. 7:11-1.15(a) is proposed for amendment by permitting a person who suffers from a disability to utilize a companion dog in any location where their presence is necessary to perform the duty for which they are trained.

The Authority is proposing to amend N.J.A.C. 7:11-1.22 to expand the restricted activities related to horses to include walking or grazing horses as well as riding them. The Authority is proposing to amend the title of N.J.A.C. 7:11-1.22 from “horseback riding” to “horse activities” to be consistent with the changes that are being proposed to the rule.

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The Authority is proposing new N.J.A.C. 7:11-1.27(d) to allow a person to engage in scuba diving or skin diving at the Round Valley and Spruce Run Recreation Areas provided the person complies with the requirements of the State Park Service Code rules at N.J.A.C. 7:2-8.23.

The Authority is proposing an amendment at N.J.A.C. 7:11-1.44(b) to require that a permit to build a dock on the Delaware and Raritan Canal be obtained from the Commission (in accordance with the Delaware and Raritan Canal State Park Review Zone rules at N.J.A.C. 7:45-2.10) as well as the Authority and the State Park Service.

N.J.A.C. 7:11-1.46 is proposed for deletion and reserved because the Authority has not installed early warning systems equipment. Notification to the public of an emergency is the responsibility of the affected municipality and county emergency management department. The Authority does maintain security personnel at all times and has put procedures in place, in the event of an emergency, for notifying the State Police and the affected municipality and county emergency management department.

N.J.A.C. 7:11-2, Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Raritan Basin Systems, pertains to the setting of rates for the purchase of water by water users and the procedures to be followed when the schedule of rates is changed. No amendments are proposed.

N.J.A.C. 7:11-3, Rules for the Use of Water from the Delaware and Raritan Basin System, establishes the water management requirements for the Raritan Basin System as administered by the Authority. The Authority is proposing to delete "Delaware and" from the title of the Subchapter in order to be consistent with the name of the system as used throughout the Chapter.

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N.J.A.C. 7:11-3.2(b)2 is proposed for amendment to correct a punctuation error.

N.J.A.C. 7:11-3.3(a) is proposed for amendment to correct a grammatical error.

N.J.A.C. 7:11-3.5(d) is proposed for amendment to more accurately define all components of the rate that short-term users are required to pay as provided in N.J.A.C. 7:11-2.

N.J.A.C. 7:11-3.5(e) is proposed for amendment to include quarterly payment terms as a courtesy to smaller customers that have either seasonal revenue streams during the year or whose contract amounts are low enough to make quarterly billing more cost effective.

N.J.A.C. 7:11-3.17 is proposed for deletion and reserved because the provisions regarding excess withdrawal were replaced by those regarding overdraft charges within N.J.A.C. 7:11-2.17 and 2.18.

N.J.A.C. 7:11-3.19(b) is proposed for amendment by replacing “his” with “the “user’s” for clarity.

N.J.A.C. 7:11-4, Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Manasquan Reservoir Water Supply System, pertains to the setting of rates for the purchase of water by water users and the procedures to be followed when the schedule of rates is changed.

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N.J.A.C. 7:11-4.2 contains the definitions of terms used in the New Jersey Water Supply Authority rules pertaining to the Schedule of Rates and Charges for the sale of water from the Manasquan Reservoir Water Supply System. The Authority proposes to add “reservoir” before “pump station” as explained above.

N.J.A.C. 7:11-5, Rules for the Use of Water from the Manasquan Reservoir Water Supply System, sets forth the water management requirements for the Manasquan Reservoir System as administered by the Authority.

N.J.A.C. 7:11-5.2 contains the definitions of terms used in the New Jersey Water Supply Authority rules pertaining to the Manasquan Reservoir System. The Authority proposes to amend the following definitions:

“Manasquan Reservoir System” is proposed for amendment to be consistent with the definition of the term at N.J.A.C. 7:11-4.2. In addition, the Authority is proposing to add “reservoir” before “pump station” as explained above.

“Short-term service” is proposed for amendment to be consistent with the definition of the term at N.J.A.C. 7:11-4.2.

N.J.A.C. 7:11-5.5(h) is proposed for amendment to clarify that late payment charges will be based on two percent above the prime rate of the bank holding the Authority’s short-term deposits rather than naming a specific bank. The Authority prefers to choose a FDIC-insured bank that offers the best terms and conditions.

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N.J.A.C. 7:11-5.6(b) is proposed for amendment to correct a grammatical error.

N.J.A.C. 7:11-5.8(b) is proposed for amendment to correct a grammatical error.

N.J.A.C. 7:11-5.12(a) and 5.12(b) are proposed for amendment to reflect the water user's current corporate identity name.

N.J.A.C. 7:11-5.21 is proposed for amendment to correct a grammatical error.

### Social Impact

The rules proposed for readoption with amendments will continue to provide reasonable and necessary standards for the regulation of the use of Authority facilities as well as reasonable mechanisms for the setting of water use rates and the policies and procedures governing that use.

Subchapter 1 has and will continue to have a positive social impact by providing specific guidelines governing a wide variety of activities that may take place on Authority property. These specific provisions allow the Authority to accomplish a two-fold objective: to preserve the water systems which the Authority is charged with operating and to protect the public health, welfare and safety while using the Authority's facilities.

Subchapter 2 and 4 will have minimal social impact. These subchapters represent the Authority's effort to ensure that rates for water withdrawn, diverted or allocated from the Raritan Basin System and the Manasquan Reservoir Water Supply System are equitably assessed and

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sufficient to provide the revenues required by the Authority. In this way, Authority facilities may be properly maintained so that water user's needs can be met.

By providing specific guidance to water users as to contract procedures, payment terms and general requirements for water use agreements for water withdrawn, allocated or diverted from Authority facilities, the Authority pursuant to N.J.A.C. 7:11-3 and N.J.A.C. 7:11-5 is thereby able to properly manage the water facilities under its jurisdiction in a consistent manner.

#### Economic Impact

Subchapter 1 will have an indirect and positive economic impact. Since the Authority charges no fees to the public for use of Authority facilities, the public will experience no direct economic impact by the readoption of these rules. The rules will, however, help to prevent and deter damage to Authority property by clearly establishing permissible uses and warnings that criminal penalties will accompany any misuse. Decreased property abuse and damage means decreased costs for maintenance, repair and replacement of Authority facilities, which in turn, helps to avoid budget increases for maintenance and upkeep. When budget increases are controlled, rates charged to water users, which ultimately are passed on to the user's own water customers, are controlled.

As discussed in the Summary, N.J.A.C. 7:11-2 and N.J.A.C. 7:11-4, respectively, set the Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Raritan

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Basin System and the Manasquan Reservoir System. Each year, the Authority promulgates amendments to these subchapters to cover operation and maintenance costs for each Fiscal Year. The Authority anticipates proposing amendments to N.J.A.C. 7:11-2 and N.J.A.C. 7:11-4 in December 2008 in order to become effective on July 1, 2009.

Subchapter 3 will result in minimal economic impact since these rules continue established policies of the Authority which control the diversion of water from Authority facilities. It is estimated that the annual cost to each of the Authority's wholesale customers to comply with the diversion monitoring and reporting rules in Subchapter 3 amounts to less than \$3,500.

Subchapter 5 will result in minimal economic impact since these rules continue established policies of the Authority which control the diversion of water from Authority facilities. It is estimated that the annual cost to each of the Authority's wholesale customers to comply with the diversion monitoring and reporting rules in Subchapter 5 amounts to less than \$3,500.

#### Environmental Impact

The rules proposed for readoption with amendments have an overall positive environmental impact. By regulating the recreational and non-recreational use of its facilities in accordance with N.J.A.C. 7:11-1, the Authority is able to minimize environmental damage to the lands and waters under its jurisdiction while still providing the public with attractive facilities to

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enjoy. Similarly, Subchapters 2, 3, 4 and 5 provide the Authority with the revenue and management authority needed to upkeep and preserve its facilities.

#### Federal Standards Statement

Executive Order No.27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), require State agencies that adopt, readopt, or amend rules or regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis.

These rules are promulgated under the procedures of the New Jersey Water Supply Authority. The New Jersey Water Supply Authority is an instrumentality of the State of New Jersey in, but not of, the Department of Environmental Protection. The New Jersey Water Supply Authority is charged with the operation and management of the State owned raw water supply facilities within the State of New Jersey.

The rules proposed for readoption with amendments are not under the authority of or in order to implement, comply with or participate in any program established under Federal Law. In addition, the rules proposed for readoption are not under the authority of a State statute that incorporates or refers to Federal law, standards, or requirements. Therefore, no Federal standards analysis is required.

#### Jobs Impact

The New Jersey Water Supply Authority does not anticipate that the rules proposed for readoption with amendments will result in the generation or loss of jobs.

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### Agriculture Industry Impact

In accordance with P.L. 1998, c. 48, which amends the Right to Farm Act, and in accordance with N.J.S.A. 52:14B-4(a)2, which requires that an Agriculture Industry Impact Statement be included in the rule proposal. The Authority has evaluated this rulemaking to determine the nature and extent of the impact of the rules proposed for re adoption with amendments will have on the Agriculture industry. Agriculture is impacted by the rules proposed for re adoption with amendments to the extent that farms and other agricultural users receive water allocations from the Department of Environmental Protection and contracts with the New Jersey Water Supply Authority for the purchase of water as a condition of the water allocation permit.

### Regulatory Flexibility Statement

The Authority is a wholesaler of raw water supplies to several municipalities and privately owned water companies who in turn treat and deliver water to business, commercial and residential end users. Additionally, the Authority sells raw water to several golf courses, both public and private, State facilities and other private users. As such, the Authority does sell water directly to small businesses, which would require them to comply with Subchapters 2 through 5. Subchapter 1 is concerned only with the public use of Authority property and does not place any compliance requirements on small businesses.

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Authority has determined that eight of its customers qualify as “small businesses” under N.J.S.A. 52:14B-16 et seq., and all the businesses are golf courses. The rules proposed for

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readoption with amendments will not impose additional reporting, recordkeeping or other compliance requirements on small businesses. Customers have been required and will continue to be required to file quarterly or monthly consumption reports with the Authority on which billing is based. The rules minimize adverse economic impacts because the Authority uses a copy of the same form that is submitted by the customer to the New Jersey Department of Environmental Protection for compliance with the water allocation permit. Additionally, the rules proposed for readoption with amendments allow for quarterly billing, in certain circumstances, which further minimizes the number of times per year the customer is asked to process invoices. There are no initial capital costs imposed by the rules proposed for readoption with amendments associated with the reporting requirement. The Authority also does not anticipate that small businesses will have to utilize professional services to comply with the rules.

#### Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies which adopt, amend or repeal State regulations to include in the rulemaking document a Smart Growth Impact Statement that describes the impact of the rules proposed for readoption with amendments on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Authority has evaluated this rulemaking to determine the nature and extent the rules proposed for readoption with amendments will have on smart growth and implementation of the State Plan.

The rules proposed for readoption with amendments do involve land use policies and infrastructure development pertaining to the use of Authority property for water supply and recreational purposes, although, the regulation for recreational use is not expected to have

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any impact on the achievement of smart growth. The regulation of water supply diversions is anticipated to have a positive, although indirect, impact upon smart growth and the implementation of the State Development and Redevelopment Plan through effective management of system water supplies. Therefore, the rules proposed for re-adoption with amendments are consistent with the State's achievement of smart growth and implementation of the State Plan.

#### Housing Affordability Impact

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Authority has evaluated the rules proposed for re-adoption with amendments for the purposes of determining their impact, if any, on the affordability of housing. The Authority has determined that the rules proposed for re-adoption with amendments will impose an insignificant impact because there is an extreme unlikelihood that the rules will evoke a change in the average costs associated with housing. The Authority finds that the rules proposed for re-adoption with amendments do not change land use policies or the nature and scope of the regulation, but relate only to the regulation of, and the recreational and non-recreational use of the Authority's facilities and provide revenue and management that the Authority needs for upkeep and to preserve its facilities. Therefore, there is an extreme unlikelihood that the rules proposed for re-adoption with amendments would evoke a change in the average costs associated with housing.

#### Smart Growth Development Impact

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Authority has evaluated the rules proposed for re-adoption with amendments for

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purposes of determining their impact, if any, on smart growth development. The Authority has determined that the rules proposed for readoption with amendments will impose an insignificant impact because there is an extreme unlikelihood that the rules will evoke a change in housing production within Planning areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The Authority finds that the rules proposed for readoption with amendments do not change land use policies or the nature and scope of the regulations but relate only to the regulation of, and the recreational and non-recreational use of the Authority's facilities and provide revenue and management that the Authority needs for upkeep and to preserve its facilities. Therefore, there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in housing production within Planning areas 1 or 2 or within Designated Centers.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:11.

**Full text** of the proposed amendments follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

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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 Raritan Basin System, **the Manasquan Reservoir System**, 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.

7:11-1.6 Definitions

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

...

“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 **or diesel** engine [not exceeding 400 cubic centimeters] but shall not include golf carts.

...

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

...

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**"Manasquan Reservoir System" means the water supply system constructed by the Authority in Monmouth County, the major components of which are a 770 acre, four-billion gallon reservoir facility in Howell Township, a raw water intake facility and reservoir pump station located adjacent to the Manasquan River in Wall Township, and an approximate 5.25 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.**

...

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

...

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

...

“Power boats” means all fuel or [battery] **electrically** powered boats.

...

“Small electric motors” means electric powered motors with size no greater than [four horsepower] **30 foot-pounds.**

...

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

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

(b) (No change.)

7:11-1.22 Horse[back riding] **Activities**

No person shall ride, **walk or graze a** horse[back] on property under the jurisdiction of the Authority except on designated trails and in designated areas where [horseback riding is] **such activities are** allowed.

7:11-1.27 Recreational activities

(a) –(c) (No change.)

**(d) Notwithstanding the requirement imposed under (c) 10 and 11 above, a person may engage in scuba diving or skin diving at the Spruce Run and Round Valley Recreation Areas provided the person complies with the requirements in the State Park Service Code at N.J.A.C. 7:2-8.23.**

7:11-1.44 Delaware and Raritan Canal

(a) (No change.)

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(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 Commission**, the Authority and the State Park Service.

7:11-1.46 [Early warning systems] **Reserved**

[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.]

### SUBCHAPTER 3. RULES FOR THE USE OF WATER FROM THE [DELAWARE AND] RARITAN BASIN SYSTEM

7:11-3.2 Public hearing

(a) (No change.)

(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. (No change.)

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2. Identification of the applicant's water supply facilities which are planned to use the waters of the Raritan Basin System[.];

3.-4. (No change.)

(c) (No change.)

7:11-3.3 Water use agreement

(a) Water is to be withdrawn from the Raritan Basin 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) (No change.)

7:11-3.5 Payments

(a)-(c) (No change.)

(d) Until the total water supply capacity of the Raritan Basin System is allocated by contract, the New Jersey Water Supply Authority may allow interim, short-term use of the uncommitted capacity of the System on a non guaranteed, annual interruptible basis to support the growing of agricultural and horticultural products provided that short-term users shall pay the cost of operation and maintenance, the capital fund component, debt service assessments, and source

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**water protection fund component established in accordance with N.J.A.C. 7:11-2** for the actual amount of water diverted by the short-term user during any month.

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

7:11-3.17 [Excess withdrawal] **Reserved**

[(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.]

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7:11-3.19 Meter

(a) (No change.)

(b) The user shall have the flow meter tested for accuracy at [his] **the user's** 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)-(d) (No change.)

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

7:11-4.2 Definitions

...

"Manasquan Reservoir System" means the water supply system constructed by the Authority in Monmouth County, the major components of which are a 770 acre, four-billion gallon reservoir facility in Howell Township, a raw water intake facility and **reservoir** pump station located adjacent to the Manasquan River in Wall Township, and an approximate 5.25 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.

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

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:

...

"Manasquan Reservoir System" means the water supply system constructed by the Authority in Monmouth County, the major components of which are a 770[740] acre, four-billion gallon reservoir facility in Howell Township, a raw water intake facility and reservoir pump station located adjacent to the Manasquan River in Wall Township, and an approximate 5.25[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.

...

"Short-term service" means the supply of Manasquan Reservoir System water 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 as a result of transfers arising from a declaration of drought by the Department or Monmouth County, meeting non-seasonal extraordinary requirements in consumer demand for potable or industrial water or emergent maintenance or temporary failure of a critical component of a system water user's infrastructure provided on a non-guaranteed or interruptible basis.

...

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7:11-5.5 Payments

(a)-(g) (No change.)

(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.]**bank holding short-term deposits of the Authority**, prevailing on the due date, but not to exceed 18 percent per annum, from the date when due until paid.

(i) (No change.)

7:11-5.6 Sale of excess water

(a) (No change.)

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

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

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7:11-5.8        Period of contract

(a) (No change.)

(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.

7:11-5.12        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.] **New Jersey American Water.**

(b) In the case of [New Jersey-American Water Company, Inc.] **New Jersey American Water,** 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.] **New Jersey American Water,** the purchaser shall be relieved of all further liability under the terms of the water purchase contract.

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

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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 A[a]uthority 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.

Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis addressing the requirement of Executive Order 27 (1994) and N.J.S.A. 52:14B-23, permit the public to understand accurately and plainly the purposes and expected consequences of the proposed readoption with amendments. I hereby authorize this proposal.

Date: \_\_\_\_\_

\_\_\_\_\_  
Lisa P. Jackson  
Commissioner and  
Chair of the New Jersey Water Supply Authority