

6.-13. (No change.)  
(e)-(h) (No change.)

uses.

(a)

**NEW JERSEY WATER SUPPLY AUTHORITY  
Schedule of Rates, Charges and Debt Service  
Assessments for the Sale of Water from the  
Raritan Basin System**

**Proposed Amendments: N.J.A.C. 7:11-2.3, 2.4, 2.5,  
2.6 and 2.12**

Authorized By: New Jersey Water Supply Authority, Mark N.  
Mauriello, Acting Chair, and Acting Commissioner, Department  
of Environmental Protection.

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

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

DEP Docket Number: 23-09-11/759.

Proposal Number: PRN 2009-389.

In accordance with N.J.A.C. 7:11-2.14(a)4, a **pre-public hearing meeting** concerning this proposal will be held on:

Friday, January 8, 2010 at 10:00 A.M.  
New Jersey Water Supply Authority Administration Building  
1851 Route 31  
Clinton, New Jersey

A **public hearing** concerning this proposal will be held on:

Friday, February 5, 2010 at 10:00 A.M. to close of comments at the New Jersey Water Supply Authority Administration Building Executive Conference Room  
1851 Route 31  
Clinton, New Jersey 08809

Submit written comments by February 19, 2010 to:

Oneida Cuevas, Esq.  
Department of Environmental Protection  
Office of Legal Affairs  
Attn: DEP Docket No. 23-09-11/759  
401 East State Street, 4th Floor  
Post Office Box 402  
Trenton, New Jersey 08625-0402

and

Henry S. Patterson  
Executive Director  
New Jersey Water Supply Authority  
Attn: DEP Docket No. 23-09-11/759  
1851 Route 31  
Post Office Box 5196  
Clinton, New Jersey 08809

The New Jersey Water Supply Authority (Authority) requests that commenters submit comments on disk or CDs as well as on paper. Submittal of a disk or CD is not a requirement. Submittals on disk or CD must not be access-restricted (locked or read-only) in order to facilitate use by the Department of the electronically submitted comments. 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 Basis and Background document, which is available at the Authority's web site <http://www.njwsa.org>, explains in further detail the financial justification for the proposed revised rate schedule. The rules can also be viewed or downloaded from the Authority's web site.

The agency proposal follows:

#### Summary

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

The Authority is proposing to amend its Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Raritan Basin System (System), to cover expenses for the Fiscal Year (FY) commencing July 1, 2010. The amendments to specific aspects of the rate structure proposed by this rulemaking will result in no changes to the overall rate. Final action on the rate adjustments is scheduled for the Authority's April 5, 2010 meeting.

The General Rate Schedule for Operations and Maintenance (O&M) covers the operation expenses of the System. This component, set forth at N.J.A.C. 7:11-2.3 and the stand-by charge at N.J.A.C. 7:11-2.12, were last adjusted effective July 1, 2009 when it was increased from \$142.34 to \$142.39 per million gallons (MG). See 40 N.J.R. 6891(a) and 41 N.J.R. 2466(b).

The O&M Rate Component sales base for FY 2010 is set forth at N.J.A.C. 7:11-2.3(a)8. The O&M Rate Component sales base for FY 2010 was 182.154 million gallons per day (MGD) which is expected to decrease to 182.073 MGD. Projected operating costs for FY 2011 now indicate that an increase in the O&M Rate Component from, \$142.39 to \$142.55, will be needed for the period starting July 1, 2010. The

Authority proposes to amend N.J.A.C. 7:11-2.3(a)8 and (b) to incorporate both these changes.

At N.J.A.C. 7:11-2.4(b), the Debt Service Assessment Rate for the 1998 Water System Revenue Refunding Bonds issued to refinance the Authority's Water System Revenue Bonds Series 1988, was based on a sales base of 182.079 MGD for FY 2010. The Authority anticipates that the applicable sales base for FY 2011 will decrease to 182.073 MGD. The principal and interest payments due in FY 2011 are \$10,712 less than in FY 2010 which results in a rate of \$40.45 (decrease) per MG for FY 2011.

The Authority established a "Capital Fund Assessment" (N.J.A.C. 7:11-2.5(c)) starting July 1, 1994. This component is used to fund the Authority's annual Capital Improvement Program that includes projects to rehabilitate various culverts, canal embankments, and flow control structures, without incurring long term debt. It is proposed that the Capital Fund Assessment remain constant at \$33.00 per MG in FY 2011.

The Authority established a "Source Water Protection Fund Component Rate" (N.J.A.C. 7:11-2.6(b)) starting July 1, 2002. The Source Water Protection Fund Component per MG is based on the annual source water protection expenses to acquire and otherwise protect parcels of land critical to the preservation of system water quality and quantity. It is proposed that the Source Water Protection Fund Component Rate remain constant at \$15.00 per MG for FY 2011.

Currently, N.J.A.C. 7:11-2.12(a)1 and 2 set forth regulatory provisions for Standby Charges. The Authority proposes amending this provision by changing the O & M Rate Component from \$142.39 to \$142.55 per MG effective July 1, 2010. The increase in this rate component is explained above, with regard to N.J.A.C. 7:11-2.3.

#### Social Impact

The proposed amendments will have a positive social impact and effect. The proposed amendments represent the Authority's efforts to ensure that its regulatory programs are consistent with its statutory authority over surface and subsurface water supplies and that its rates for raw water withdrawn, diverted or allocated from the Raritan Basin System are equitably assessed and sufficient to provide the revenues required by the Authority.

The Raritan Basin System, comprised of an area of 800 square miles, the 11 billion gallon capacity Spruce Run Reservoir in Hunterdon County, the 55 billion gallon capacity Round Valley Reservoir in Hunterdon County in conjunction with the sixty mile long Delaware and Raritan Canal in Hunterdon, Mercer, Somerset, and Middlesex Counties, provides both active and passive recreational opportunities to the public in addition to a basic raw water supply for approximately 2,000,000 individuals living in central New Jersey.

#### Economic Impact

The proposed adjustment to the rate schedule will result in no change in the overall water rate of \$231.00 per MG. Based upon the average household usage of 170 gallons per day, the annual average increase per household is \$0.00. The rate will continue to ensure that necessary insurance coverage is continued for all aspects of the Authority's operations, and the continuation of operations to meet and enhance the Authority's mission of managing water supply. The regulatory amendments to the Schedule of Rates and Charges are in accordance with the Authority's statutory jurisdiction over System diversions which impact safe yield.

#### Environmental Impact

The adequate financing of the Raritan River Basin System's upkeep and operation, which is provided by the proposed amendments, will result in a positive environmental impact. A properly maintained Raritan Basin System and its operations protect the water users in the Raritan River Basin.

The Raritan Basin System also provides habitat for many species of waterfowl and wildlife in an increasingly urbanized region of the State.

The Raritan Basin System is capable of supplying a dependable water supply of 241 million gallons per day throughout a re-occurrence of the worst drought on record while still maintaining adequate river flows through release of stored waters to support the ecological systems and

wildlife which are dependent upon adequate stream flows in the River Basin.

The Source Water Protection Fund has a positive environmental impact by providing greater protection to water quality and quantity in the Raritan River Basin through real estate acquisitions, coordinated government land management practices, and remedial projects.

**Federal Standards Statement**

P.L. 1995, c. 65 (amending N.J.S.A. 52:14B-1 et seq.) and Executive Order No. 27 (1994) require administrative agencies which adopt, readopt, or amend any rule or regulation to which the Order applies to provide a comparison with Federal law, and to provide further discussion and analysis (including a cost-benefit analysis) if the standards or requirements by the agency exceed standards or requirements imposed by Federal law.

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

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

**Jobs Impact**

The proposed amendments are an annual revision to the Authority's regulations covering rates for its water customers in the Raritan Basin System. The implementation of these amendments is not anticipated to result in the generation or loss of jobs.

**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 proposed amendments will have on the agriculture industry. Agriculture is impacted 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**

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Authority has determined that the proposed amendments will not impose reporting, recordkeeping or other compliance requirements on small businesses because they affect only the rates charged to users for water purchased from the Authority. The water companies which contract to purchase water from the Authority and which are impacted by these rules do not qualify as "small businesses" pursuant to N.J.S.A. 52:14B-16 et seq., as all employ more than 100 full-time employees.

**Smart Growth Impact**

Executive Order No. 4 (2002) requires State agencies which adopt, amend or repeal any rule adopted pursuant to Section 4(a) of the Administrative Procedure Act (N.J.S.A. 52:14B-4(a)) to describe the impact of the proposed amendments will have on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the proposed amendments' impact on smart growth and the implementation of the State Plan. The proposed amendments modify the Authority's Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Raritan Basin System (System) to cover expenses for the FY commencing July 1, 2010.

Because the amendments do not involve land use policies or infrastructure development, they are not expected to have any impact on

the achievement of smart growth. The proposed amendments are not expected to have any impact on 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 proposed amendments for the purposes of determining their impact, if any, on the affordability of housing. The Authority has determined that the proposed amendments will impose no impact because there is no likelihood that the amendments will evoke a change in the average costs associated with housing. The Authority finds that the proposed amendments do not change land use policies or the nature and scope of the rules. Therefore, it is not likely that the proposed amendments will 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 proposed amendments for purposes of determining their impact, if any, on smart growth development. The Authority has determined that the proposed amendments will impose no impact because it is not likely 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 proposed amendments do not change land use policies or the nature and scope of the rules. Therefore, it is not likely that the proposed amendments will evoke a change in housing production within Planning Areas 1 or 2 or within designated centers.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

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

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

1.-7. (No change.)

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 [182.154] **182.073** million gallons per day has been used in setting the rate listed in (b) below.

(b) General rate schedule for operations and maintenance:

<u>Allocation</u>	<u>Rate/Million Gallons</u>
Million Gallons per Day (MGD)	[\$142.39] <b>\$142.55</b>

7:11-2.4 Debt service assessments

(a) (No change.)

(b) The following debt service assessment rate for the 1998 Water System Revenue Refunding Bonds, based on a sales base of [182.079] **182.073** million gallons per day, will be applied to all customers.

<u>Period</u>	<u>Allocation</u>	<u>Rate/Million Gallons</u>
7/1/[2009]2010 to 6/30/[2010]2011	Million Gallons per Day (MGD)	[\$40.61] <b>\$40.45</b>

7:11-2.5 Capital Fund Component

(a)-(b) (No change.)

(c) Capital Fund Assessment

<u>Period</u>	<u>Allocation</u>	<u>Rate/Million Gallons</u>
7/1/[2009]2010 to 6/30/[2010]2011	Million Gallons per Day (MGD)	\$33.00

7:11-2.6 Source Water Protection Fund Component

(a) (No change.)

(b) Source Water Protection Fund Assessment

**PROPOSALS**

<u>Period</u>	<u>Allocation</u>	<u>Rate/Million Gallons</u>
7/1/[2009]2010 to 6/30/[2010]2011	Million Gallons per Day (MGD)	\$15.00

7:11-2.12 Standby charge

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

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

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

<u>Maximum withdrawal capacity</u>	<u>Charge per month</u>
Each 1 MGD (700 GPM) or fraction thereof	[\$142.39] <b>\$142.55</b> plus annual Debt Service Assessments Rate for 1998 Water System Revenue Refunding Bonds, Capital Fund Component, and Source Water Protection Fund Component.

2. For Standby Contracts within the Raritan River Basin:

<u>Maximum withdrawal capacity</u>	<u>Charge per month</u>
Each 1 MGD (700 GPM) or fraction thereof	[\$142.39] <b>\$142.55</b> plus annual debt service assessments rate for 1998 Water System Revenue Refunding Bonds, Capital Fund Component, and Source Water Protection Fund Component.