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ENVIRONMENTAL PROTECTION

NEW JERSEY WATER SUPPLY AUTHORITY

Rules for the Use of Water Supply Authority Property and 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, and 2.6

Authorized By: New Jersey Water Supply Authority, Shawn M. LaTourette, Chair, and 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: 2-23-11.

Proposal Number: PRN 2024-004.

Take notice that in accordance with N.J.A.C. 7:11-2.14(a), the New Jersey Water Supply Authority (Authority) will hold a pre-public hearing meeting on January 5, 2024, at 10:00 A.M. and a public hearing on February 2, 2024, at 10:00 A.M. concerning this notice of proposal. Both the pre-public hearing meeting and public hearing will be conducted virtually through the Authority's video conferencing software, Microsoft Teams. Further information on accessing the pre-public hearing meeting and the public hearing will be posted on the Authority's website at <https://www.njwsa.org/public-notices.html> at least 15 days prior to the date of the meeting/hearing. Notice will also be sent to those who have subscribed to the Authority's

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rulemaking list service (listserv). To subscribe to the listserv, go to <https://www.njwsa.org/rate-proposals.html>.

Submit comments by March 2, 2024, electronically [to the Authority at info@njwsa.org](mailto:info@njwsa.org).

The Authority encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Marc Brooks
Executive Director
New Jersey Water Supply Authority
Attention: DEP Docket No. 2-23-11
1851 Route 31
PO Box 5196
Clinton, NJ 08809

The Basis and Background document, which is available at the Authority's website <http://www.njwsa.org>, explains in further detail the financial justification for the proposed rate schedule. The rules can also be viewed or downloaded from the Authority's website, <http://www.njwsa.org>.

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.

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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 Fiscal Year (FY) 2025. The Authority operates on a July 1 to June 30 Fiscal Year. For FY 2025, there are no changes in the total overall rate of \$365.00 per million gallons of water (MG). The Authority anticipates the rates will be adopted and operative by July 1, 2024.

The general rate schedule for operations and maintenance (O&M) covers the System's operation expenses. This component, set forth at N.J.A.C. 7:11-2.3 and incorporated by reference in the stand-by charge at N.J.A.C. 7:11-2.12, was last adjusted effective July 1, 2023, when the amount was increased from \$194.00 to \$203.00 per MG. See 55 N.J.R. 3(a); 1289(a). The Authority is proposing no change to the rate of \$203.00 per MG for FY 2025.

The O&M rate component sales base is set forth at N.J.A.C. 7:11-2.3(a)8. The O&M rate component sales base for FY 2024 was 182.339 million gallons per day (MGD). The Authority anticipates no change in the sales base for FY 2025.

At N.J.A.C. 7:11-2.4(b), the debt service assessment rate for FY 2024 was based on a sales base of 182.339 MGD. The Authority anticipates the applicable sales base for FY 2025 will remain at 182.339 MGD. For FY 2025, the Authority is proposing no change to this rate component at \$109.00 per MG, to pay existing and anticipated debt service to the New Jersey Infrastructure Bank (NJIB), formerly New Jersey Environmental Infrastructure Financing Program (NJEIFP), for four projects: dredging a 10.5 mile stretch of the Delaware and Raritan Canal, rehabilitating three earthen embankments within the Authority's Round Valley Reservoir System (Round Valley Reservoir Rehabilitation Program), and two recently added projects;

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foundation grouting, and spillway improvements at the Authority's Spruce Run Reservoir. When the final bonds have been issued for all the projects, the rate may be adjusted to reflect the final debt service schedules.

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, which includes projects to rehabilitate various culverts, canal embankments, and flow control structures, without incurring long-term debt. Projected capital costs for FY 2025 indicate that no change is necessary in the Capital Fund Assessment of \$33.00 per MG.

On July 1, 2002, the Authority established a Source Water Protection Fund Assessment (N.J.A.C. 7:11-2.6(b)). This component 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. Projected costs for FY 2025 indicate that no change is necessary in the Source Water Protection Fund Assessment of \$20.00 per MG.

Social Impact

The proposed amendments will maintain the overall rate of \$365.00 per million gallons for FY 2025 and will ensure that the 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, comprising an area of 800 square miles and including the 11 billion gallon capacity Spruce Run Reservoir in Hunterdon County, the 55 billion gallon capacity Round Valley Reservoir in Hunterdon County, and the 60-mile long Delaware and Raritan Canal

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in Hunterdon, Mercer, Somerset, and Middlesex Counties, provides both active and passive public recreation opportunities, in addition, to a basic raw water supply for approximately two million individuals living in central New Jersey.

Economic Impact

The proposed adjustment to the rate schedule will result in a total charge for the uninterruptible untreated water supply from the System of \$365.00 per MG starting July 1, 2024. This is not a change relative to Fiscal Year 2024. The rate will continue to ensure that necessary insurance coverage is maintained for all aspects of the Authority's operations while also sustaining operations to meet and enhance the Authority's mission of managing the water supply. The regulatory amendments to the Schedule of Rates and Charges are in accordance with the Authority's statutory jurisdiction over System diversions that impact safe yield. There is no anticipated rate impact on the average New Jersey household in the billing area based on usage of 400 gallons per day per household.

Environmental Impact

The proposed amendments provide adequate financing of the Raritan River Basin System's upkeep and operation and will result in a positive environmental impact. A properly maintained and operated Raritan Basin System ensures that Raritan River Basin water users are protected. 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 can supply a dependable 241 million gallons of water per day even throughout a recurrence of the worst drought on record while maintaining adequate river

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flows through the release of stored waters to support the Raritan River Basin's ecological systems and wildlife.

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

The Capital Fund Component has a positive environmental impact by ensuring that sufficient funds are available to maintain the water delivery System. Proper maintenance of the reservoirs and the Delaware and Raritan Canal ensures that statutory passing flows are maintained in the Raritan River Basin, and that the Delaware and Raritan Canal can pass 100 million gallons of water daily from the Delaware River at Bulls Island to the Raritan River at Landing Lane in New Brunswick.

Federal Standards Statement

N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), requires administrative agencies which adopt, readopt, or amend any rule or regulation to which the Executive Order and statutes apply 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 pursuant to the Authority's procedures. 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.

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These amendments are not proposed pursuant to the authority of, or in order to, implement, comply with, or participate in any program established pursuant to Federal law. In addition, the proposed amendments are not pursuant to 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 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 a notice of proposal, the Authority has evaluated this rulemaking to determine the nature and extent of the impact of the proposed amendments 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 contract 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 the proposed

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amendments affect only the Authority's water rates charged to purchasers. The water companies that contract to purchase water from the Authority and are impacted by these rules do not qualify as "small businesses" pursuant to N.J.S.A. 52:14B-16 et seq., because they all employ more than 100 full-time employees.

Housing Affordability Impact Analysis

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, at 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 upon the affordability of housing and there is no likelihood the rules will evoke a change in the average costs associated with housing. The Authority finds the proposed amendments do not change land use policies or the nature and scope of the rules.

Smart Growth Development Impact Analysis

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 the proposed amendments will impose no impact because it is unlikely the rules will evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan. The Authority finds the proposed amendments do not change land use policies or the nature and scope of the rules.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

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The Authority has evaluated this rulemaking and determined it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 2. SCHEDULE OF RATES, CHARGES, AND DEBT SERVICE ASSESSMENTS FOR THE SALE OF WATER FROM THE RARITAN BASIN SYSTEM

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

(a) (No change.)

(b) General rate schedule for operations and maintenance:

<u>Period</u>	<u>Allocation</u>	<u>Rate/Million Gallons</u>
(State fiscal year unless otherwise indicated)		
State fiscal year [2024] 2025	Million Gallons per Day (MGD)	\$203.00

7:11-2.4 Debt service assessments

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(a) (No change.)

(b) The following debt service assessment rate for the New Jersey Environmental Infrastructure Financing Program loans, based on a sales base of 182.339 million gallons per day, will be applied to all customers.

<u>Period</u>	<u>Allocation</u>	<u>Rate/Million Gallons</u>
(State fiscal year unless otherwise indicated) State fiscal year [2024] 2025	Million Gallons per Day (MGD)	\$109.00

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>
(State fiscal year unless otherwise indicated) State fiscal year [2024] 2025	Million Gallons per Day (MGD)	\$33.00

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7:11-2.6 Source Water Protection Fund Component

(a) (No change.)

(b) Source Water Protection Fund Assessment

<u>Period</u>	<u>Allocation</u>	<u>Rate/Million Gallons</u>
(State fiscal year unless otherwise indicated) State fiscal year [2024] 2025	Million Gallons per Day (MGD)	\$20.00