

14:8-2.10 Alternative compliance payments (ACPs and SACP)
 (a)-(g) (No change.)
 (h) Table C sets forth the SACP for each energy year from energy year 2013 through energy year 2028:

Table C
 SACP Schedule

<u>Energy Year</u>	<u>SACP</u>
June 1, 2012-May 31, 2013	\$641.00
June 1, 2013-May 31, 2014	\$339.00
June 1, 2014-May 31, 2015	\$331.00
June 1, 2015-May 31, 2016	\$323.00
June 1, 2016-May 31, 2017	\$315.00
June 1, 2017-May 31, 2018	\$308.00
June 1, 2018-May 31, 2019	\$300.00
June 1, 2019-May 31, 2020	\$293.00
June 1, 2020-May 31, 2021	\$286.00
June 1, 2021-May 31, 2022	\$279.00
June 1, 2022-May 31, 2023	\$272.00
June 1, 2023-May 31, 2024	\$266.00
June 1, 2024-May 31, 2025	\$260.00
June 1, 2025-May 31, 2026	\$253.00
June 1, 2026-May 31, 2027	\$250.00
June 1, 2027-May 31, 2028	\$239.00

(a)

BOARD OF PUBLIC UTILITIES

Water and Wastewater

Readoption with Amendments: N.J.A.C. 14:9

Proposed: October 7, 2013, at 45 N.J.R. 2174(a).
 Adopted: February 19, 2014, by the New Jersey Board of Public Utilities, Dianne Solomon, President, Jeanne M. Fox, Joseph L. Fiordaliso and Mary-Anna Holden, Commissioners.
 Filed: February 19, 2014, as R.2014 d.049, **without change**.
 Authority: N.J.S.A. 48:2-13, 48:2-20, 48:2-24, 48:2-27, 48:3-3, 48:3-7.8, 48:3-12, 48:19-18, and 58:11-59.
 BPU Docket Number: WX13020140.
 Effective Dates: February 19, 2014, Readoption; March 17, 2014, Amendments.
 Expiration Date: February 19, 2021.

Summary of Public Comments and Agency Responses:
 Robert J. Brabston, Esq., New Jersey American Water Company (NJAWC) submitted timely comments on the notice of proposal:

N.J.A.C. 14:9-2.2(f)

1. COMMENT: NJAWC has no comments or recommendations on the proposed changes and does not object to the proposed change to N.J.A.C. 14:9-2.2(f), extending the record retention period from at least five years to at least six years, per the National Association of Regulatory Utility Commissioners’ Record Retention Rules (2007).
 RESPONSE: The Board appreciates NJAWC’s comment.

N.J.A.C. 14:9-4

2. COMMENT: NJAWC recommends the Board change some of the activities currently undertaken by water utilities, like NJAWC, that do not have a specific basis in the New Jersey Administrative Code. For example, the Board currently receives meter test reports from utilities that

are typed onto a pre-printed card stock media and mailed to the Board. The card stock is not used for any other purpose, and is cumbersome to use compared to other formats such as Excel. NJAWC is recommending that the Board take the reports in electronic format, such as Excel, via email. NJAWC notes that the current rules do not specify the media or format, only the content, of the meter test reports.

3. COMMENT: NJAWC asserts that the preprinted card stock media (referred to in Comment 2) requires 10 percent of all new incoming meters must be tested by “utility personnel.” The company currently performs this activity even though the requirement does not appear anywhere in the BPU’s rules and regulations, and NJAWC does not believe that the 10 percent threshold is based in sound statistical sampling methods. In NJAWC’s experience, meter manufacturers test 100 percent of all new meters prior to shipment and send a certified list of serial numbers and test results with each shipment. The additional testing performed by NJAWC may be redundant to the testing done by the manufacturers and rarely results in corrective action or shipment returns. Alternatively, in the absence of a rigorous process to evaluate the results of NJAWC testing, the 10 percent incoming test sample may be inadequate to validate new meter types or new meter manufacturers. NJAWC believes that the data and documentation supplied to the water utilities by the water meter manufacturers, including individual meter test results certified by the manufacturers, could provide the Board staff with the information necessary to review new meter accuracy with the companies. NJAWC suggests that the Board consider using meter manufacturer quality control data to satisfy the new meter accuracy validation. If the Board determines that it needs time to see if the meter manufacturer data meets their needs, NJAWC suggests that the Board consider alternative sampling sizes or techniques for the companies to use that could be more statistically valid and economically efficient.

4. COMMENT: NJAWC states that another effect of the 10 percent new meter testing requirement (referred to in Comment 3) is that it encourages companies like NJAWC to centralize meter inventory receipt to facilitate testing. Centralized meter inventory and testing of new meters for later distribution to the operating areas where the meters will be placed in service adds expense and complexity to the meter replacement process. If 10 percent of all new meters were not being tested by NJAWC, meter shipments could be delivered directly to the operating areas, reducing the expense and complexity of administering a centralized meter inventory “way-station.”

5. COMMENT: NJAWC states that for these two activities associated with water meter testing and reporting, which are not codified in N.J.A.C. 14:9-4, NJAWC recommends that the Board discontinue the use of the pre-printed card stock reports in favor of Excel-based electronic reports, and the Board discontinue the practice of companies testing 10 percent of all new incoming meters. These two changes will result in lower expenses for the water utilities, which will reduce pressure on customer rates. NJAWC believes these changes will also enhance the efficiency of regulatory reporting and the ability of Board staff to review and analyze meter test reports.

RESPONSE TO COMMENTS 2 THROUGH 5: While the Board appreciates these comments, it notes that they relate to the general meter rules in N.J.A.C. 14:3-4 and not this chapter proposed for readoption.

N.J.A.C. 14:9-4.1

6. COMMENT: NJAWC notes that it is part of American Water Works Company (AWK) with affiliates in 12 other states. NJAWC has access to AWK meter expertise, experience, and data from a broad cross-section of the country. NJAWC is one of six AWK states that has a 10-year periodic testing requirement for five-eighths (5/8) inch meters, the size most commonly used for single residential dwellings. Eight states have a 15-year requirement, and both Pennsylvania and California have a 20-year testing requirement. NJAWC believes the 10-year periodic testing requirement drives costs up for NJAWC and its customers, causing expenses to be higher and using capital that might otherwise be allocated more efficiently and to more “value-added” investments. This is particularly true now that the industry has become far advanced in its transition to automated meter (or mobile) reading devices. These devices typically have a battery life of 15-20 years, and companies have made significant investments in these programs—investments that have

benefitted customers through reduced meter reading expenses, better data quality and collection, and more accurate and timely bills.

NJAWC notes that through its internal analyses and a review of other respected studies, such as the 2011 Utah State University study of accuracy and endurance of water meters (sponsored by the Water Research Foundation), it believes there is a compelling case to be made in support of extending the 10-year meter testing requirement to 15 or 20 years. NJAWC's data shows that, in aggregate, meter populations as a whole will tend to under-record usage as they age, meaning the companies face greater risk from extending the length of service requirement. Coupled with the fact that extending the length of service reduces expenses and allows capital to be deployed more efficiently, NJAWC believes that the Board should consider extending the length of service requirement for 5/8 inch meters to 15 years or 1.2 million gallons. NJAWC notes that the Board has already accepted an alternative to the 10-year periodic testing requirement (for example, *I/M/O United Water*, Docket No. WO93110498, in 1995) and has experience with the results of that program, so NJAWC's recommendations are not without precedent. If the Board rejects NJAWC's recommendation to amend the regulations now to allow this change, NJAWC recommends that the Board consider authorizing a pilot program for interested water utilities to assist Board staff in developing first-hand data from observing the impact of this change.

RESPONSE: As stated in N.J.A.C. 14:9-4.1(b), the Board requires that a 5/8 inch meter be tested every 10 years or 750,000 gallons, whichever occurs first, to assure the integrity of the system, and, therefore, cost savings to the ratepayer. The regulation seeks to ensure that customers only pay for the water they use. Meter accuracy is the only way to ensure this happens. Therefore, the Board believes that its 10-year testing requirement, for 5/8 inch meters, protects the customer, as well as the utility from inaccurate meter registration. Inaccurate meter registration affects customer equity and utility credibility. According to American Water Works Association's (AWWA) Manual M6, the majority of states that have mandatory testing standards for 5/8 inch meters use the 10-year requirement. As with any of the Board's rules, utility companies are permitted to petition the Board for an exception to the rules, such as NJAWC noted in the successful petition of United Water New Jersey. However, the Board notes that there were also two unsuccessful petitions filed by water utilities, for exception to the 10-year periodic testing requirement. The Board is also unaware of any correlation between the accuracy of a meter and the battery that is used to transmit the index reading of the meter to an external source. Regarding the requested change to the periodic meter testing requirement for 5/8 inch meters, the Board has determined that the rule as written is appropriate.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. N.J.A.C. 14:9 is not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis for the rules proposed for readoption with amendments.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:9.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

14:9-1.1 Scope

(a) This chapter shall apply to any water utility or wastewater utility, as defined at N.J.A.C. 14:9-1.2, which constructs, operates, and/or maintains plant and/or service connections for providing water and/or wastewater service.

(b)-(c) (No change.)

SUBCHAPTER 2. PLANT

14:9-2.2 Inspection of property

(a)-(e) (No change.)

(f) Each water and wastewater utility shall keep a record of all inspections, tests, and flushings for a period of at least six years.

(g) (No change.)

(h) A utility may petition the Board for a waiver of this section in accordance with N.J.A.C. 14:9-1.1(c).

SUBCHAPTER 3. QUALITY OF SERVICE

14:9-3.3 Wastewater service

(a) Each wastewater utility shall provide wastewater treatment service in such a manner as to prevent escape of offensive odors, the overflow of effluent, and the discharge of any untreated sewage, in accordance with NJDEP requirements at N.J.A.C. 7:10A and 7:14A. Noncompliance with this requirement shall constitute a failure to provide safe, adequate, and proper service.

(b) (No change.)

SUBCHAPTER 4. METERS

14:9-4.2 Water meter testing equipment

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

(c) No equipment shall be used in testing water meters unless it complies with N.J.A.C. 14:3-4.4.

SUBCHAPTER 5. PRESERVATION OF RECORDS

14:9-5.1 Adoption by reference of rules concerning preservation of records

(a) Each water and wastewater utility shall keep records as required by the National Association of Regulatory Utility Commissioners' (NARUC) 2007 "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities," incorporated herein by reference, as amended or supplemented, and available from the National Association of Regulatory Utility Commissioners, 1101 Vermont Avenue NW, Washington, D.C. 20005, or at <http://www.naruc.org>.

(b) (No change.)

SUBCHAPTER 6. SMALL WATER COMPANY AND SMALL SEWER COMPANY TAKEOVER ACT RULES

14:9-6.2 Definitions

Unless the context clearly indicates otherwise, the following terms, when used in this subchapter, shall have the following meanings. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:9-1.2 and in the Board's rules for all utilities at N.J.A.C. 14:3-1.1.

...

"Party to the proceedings" or "party" means a noncomplying small water company and/or small sewer company; a potential acquiring public or private entity or entities; and the Division of Rate Counsel.

...

"Rate Counsel" means the Division of Rate Counsel, which is located in, but not of, the New Jersey Department of the Treasury, pursuant to N.J.S.A. 52:27EE-54, or any successor agency.

...

14:9-6.3 Construction

(a) This subchapter shall be liberally construed to permit the Department and the Board to discharge their statutory functions.

(b) The Department and the Board may jointly amend, repeal, or rescind this subchapter from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and any rules promulgated pursuant thereto.

14:9-6.9 Joint public hearing report

(a) (No change.)

(b) The joint public hearing report shall be mailed to all those noticed by certified or registered mail of the joint public hearing in accordance with N.J.A.C. 14:9-6.8(b)3, and shall be made available for public review

through posting on the Department's and the Board's websites, <http://www.nj.gov/dep> and <http://www.nj.gov/bpu>. The Department staff and Board staff shall undertake reasonable efforts to make copies of the joint report available to all other interested persons.

(c)-(e) (No change.)

(f) If the joint report required by (a) above recommends acquisition as an option, the Department and the Board may forward a copy of the joint report to the Office of Administrative Law to provide notice that the Department and the Board may request the services of an administrative law judge on an expedited scheduling basis to conduct the contested case hearing required by N.J.A.C. 7:19-5.9.

14:9-6.10 Proposed joint takeover order

(a)-(f) (No change.)

(g) The Board staff shall serve the proposed joint takeover order by personal service or certified mail upon the following:

1. (No change.)

2. The owner and operator of the noncomplying small water company and/or small sewer company, if different from (g)1 above;

3.-4. (No change.)

(h) (No change.)

14:9-6.11 Acquisition costs

(a) If the small water company and/or small sewer company have not agreed with the acquiring entity as to acquisition costs or other matters relevant to the takeover proceedings, the Board's and the Department's designated representatives shall convene at least one meeting within 60 days of the issuance of the joint hearing report required by N.J.A.C. 14:9-6.9(a). If all matters are not resolved at this meeting, another meeting shall be held within 15 days after issuance of the proposed joint takeover order.

(b)-(i) (No change.)

14:9-6.12 Contested case hearing, final joint takeover order, and administrative consent order (ACO)

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

(c) The Board and the Department may deny a request for a contested case hearing, whether by a party to the proceedings or another person, if the hearing request:

1.-3. (No change.)

4. Is based on factual or legal issues that were reasonably ascertainable from the joint hearing report, but were not raised during the comment period provided under N.J.A.C. 14:9-6.9.

(d)-(j) (No change.)

14:9-6.15 Liability for hazardous substance discharges

An entity that acquires the facilities of a small water company and/or a small sewer company pursuant to a final joint takeover order, shall be governed by N.J.S.A. 58:11-63.2 with respect to any hazardous substance discharged at the facilities prior to the acquisition.

SUBCHAPTER 7. PURCHASED WATER AND WASTEWATER ADJUSTMENT CLAUSES

14:9-7.6 Petition contents

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

(d) If the Board approves deferred accounting, the utility shall pay interest on the deferred amount in accordance with N.J.A.C. 14:3-13.3.

(e)-(f) (No change.)

14:9-7.7 Determining the customer charge under a PWAC or PSTAC

(a) This section sets forth the procedure by which a water or wastewater utility shall calculate the amount the utility is authorized to collect from each customer under its PWAC or PSTAC. The utility shall present this calculation to the Board for its review and approval as part of a petition submitted under N.J.A.C. 14:9-7.6.

(b) (No change.)

SUBCHAPTER 8. COMBINED DOMESTIC WATER AND FIRE SUPPRESSION SERVICE

14:9-8.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:9-1.2 and 14:3-1.1.

...

"Domestic water service" means potable water service supplied by a water utility that meets or exceeds the New Jersey Safe Drinking Water rules, found at N.J.A.C. 7:10.

...

14:9-8.2 Required water tariff filings and amendments

(a) A water utility that is required under N.J.A.C. 14:3-1.3 to file a tariff with the Board after October 16, 2006 shall ensure that the tariff complies with this subchapter.

(b)-(c) (No change.)

14:9-8.3 Multi-use service

(a) (No change.)

(b) The following language shall be located in the tariff in a Terms of Payment section governing multi-use service, or in a general Terms of Payment section:

"A water utility may terminate a customer's multi-use service for non-payment of a valid water bill for multi-use service, in accordance with the Board's rules governing discontinuance of service at N.J.A.C. 14:3-3A.4(j)."

(c)-(g) (No change)

TREASURY — TAXATION

(a)

DIVISION OF TAXATION

Sales and Use Tax

Streamlined Sales and Use Tax Rules and Procedures

Adopted Amendments: N.J.A.C. 18:24-5.16, 7.17, 10.2, 10.3, 10.4, 10.6, 11.2, and 19.7; and 18:24B-1.1, 1.5, 1.6, 1.7, and 1.9

Adopted Repeals: N.J.A.C. 18:24-10.5 and 18:24B-1.2

Proposed: May 6, 2013, at 45 N.J.R. 1092(a).

Adopted: February 11, 2014, by Michael Bryan, Director, Division of Taxation.

Filed: February 11, 2014, as R.2014 d.040, **without change**.

Authority: N.J.S.A. 54:32B-24 and 54:50-1.

Effective Date: March 17, 2014.

Expiration Date: October 28, 2015, N.J.A.C. 18:24;

August 3, 2016, N.J.A.C. 18:24B.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the rulemaking authority is based on N.J.S.A. 54:32B-24, the New Jersey Sales and Use Tax Act. There are no Federal regulatory requirements or standards that affect this rulemaking. The amendments and repeals are derived from New Jersey's membership in the SSUTA, which is a compact between a number of states and does not involve the Federal government.

Full text of the adopted amendments follows: