

CHAPTER 9
WATER AND WASTEWATER

Authority

N.J.S.A. 48:2-13, 48:2-20, 48:2-24, 48:2-27,
48:3-3, 48:3-7.8 and 48:3-12.

Source and Effective Date

R.2001 d.133, effective March 27, 2001.
See: 33 N.J.R. 367(a), 33 N.J.R. 1392(b).

Executive Order No. 66 (1978) Expiration Date

Chapter 9, Water and Wastewater, expires on March 27, 2006.

Chapter Historical Note

Unless otherwise expressly noted, all provisions of Chapter 9, Sewer and Water, were adopted by the Board of Public Utility Commissioners, pursuant to authority delegated at N.J.S.A. 48:2-13 et seq. and were adopted and became effective prior to September 1, 1969.

Subchapter 6, Small Water Company Takeover Act Regulations, was adopted as R.1985 d.182, effective April 15, 1985. See: 16 N.J.R. 3380(a), 17 N.J.R. 910(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, Sewer and Water, expired on April 15, 1990.

Chapter 9, Sewer and Water, was adopted as new rules by R.1991 d.179, effective April 1, 1991. See: 22 N.J.R. 907(a), 23 N.J.R. 1012(a).

Subchapter 7, Purchased Water Adjustment Clause, and Subchapter 8, Purchased Sewerage Treatment Adjustment Clause, were adopted as R.1991 d.488, effective October 21, 1991. See: 23 N.J.R. 946(b), 23 N.J.R. 3171(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, Sewer and Water, was readopted as R.1996 d.207, effective March 29, 1996. See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Pursuant to Executive Order No. 66(1978), Chapter 9, Water and Wastewater, was readopted as R.2001 d.133, effective March 27, 2001. Subchapter 10, Consumer Confidence Reports, was adopted effective May 7, 2001. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PLANT

14:9-1.1 Plant construction

The construction and installation of plant and facilities of sewer and water utilities must be in accordance with N.J.A.C. 14:3-2.1, Plant construction, and, in addition, must be in accordance with standard specifications as set forth by

the American Water Works Association and the rules of the New Jersey Department of Environmental Protection, as applicable. When and if any controversy arises as to the necessity for adopting specifications calling for construction of a higher standard, the matter may be referred to the Board for determination.

Amended by R.1996 d.207, effective May 6, 1996.
See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

14:9-1.2 Inspection of property

(a) Each utility shall inspect each valve in the system periodically to determine its accessibility for operation, and its operating condition. Large valves, 12-inch and over, shall be inspected once every two years and other valves once every four years. At a minimum, this inspection shall include:

1. The clearing of the access area;
2. The cleaning out of the valve box; and
3. The dynamic testing of the valve by opening and then closing the valve:
 - i. That number of turns recommended by the valve manufacturer to constitute a credible test; or
 - ii. That number of turns which constitute 15 percent of the total number of turns necessary to completely open or completely close the valve per manufacturer's design.

(b) Each water utility shall, once a year, test every hydrant to determine its working condition. The water utility shall also formulate and put into practice a comprehensive and definite plan for flushing hydrants and dead ends of mains. This plan for flushing may be combined with the periodical testing of hydrants.

(c) A record of all inspections and tests shall be kept for a period of not less than five years.

Amended by R.2001 d.133, effective May 7, 2001.
See: 33 N.J.R. 367(a), 33 N.J.R. 1392(b).

In (a), added the last sentence of the introductory paragraph and added 1 through 3; in (b), substituted "The water utility" for "It" at the beginning of the second sentence.

SUBCHAPTER 2. SERVICE

14:9-2.1 Service connections

(a) Upon making service connections, the tapping of the main shall be done; and the curb cock and couplings, the service lines from main to curb, and curb box and/or the connection to the collecting main and the service from the collecting main to the curb, shall be furnished by the utility or its agent at the expense of the utility. The exact cost of the remainder of the service connection shall be paid by the customer, and the said remainder shall be placed by the customer or by agreement between the customer and the utility, by the utility or its agent; provided, however, that if placed by the customer it shall conform to reasonable specifications prescribed by the utility.

(b) Whenever a connection from main to curb is made through which regular service is not immediately desired, except during the course of construction, the customer shall bear the entire expense of making the connection but shall be entitled to a refund for such part of the cost as the utility is hereinbefore required to assume whenever regular service is begun within 10 years of the installation of the connection.

Case Notes

Water and sewer lines from a structure to the public easement connections are private property of the structure owner and located on private property; for State to make these connections absent owner's consent, it must exercise eminent domain power; relocation of lines by State not permitted in lieu of damages to owner. *State v. Sun Oil Co.*, 160 N.J.Super. 513, 390 A.2d 661 (Law Div.1978).

Petitioner's practice of charging service connection fee to new customers contrary to regulation. In re: *Califon Water Co.*, 1 N.J.A.R. 414 (1980).

14:9-2.2 Pressure and volume of water service

(a) Each water utility shall supply water service at adequate pressure and volume to the curb, or the point of connection with the customer's service line.

(b) Each water utility shall maintain sufficient pressure and volume of water at all fire hydrants to assure adequate streams for the fighting of fires.

Case Notes

Water company that undertakes to supply water within designated and protected market can fairly be charged with duty to assure that its delivery system is in working order to furnish adequate supply for all purposes, to the extent of its capabilities; however, to extent that claims for losses caused by negligent failure to maintain adequate water pressure are insured and assigned, insurer's subrogation claims are unenforceable against water company. *Ebert v. South Jersey Gas Co.*, 260 N.J.Super. 104, 615 A.2d 294 (L.1992).

Private water company was immune from liability for fire insurance companies' subrogation claims arising from its negligent failure to maintain adequate water pressure for fire fighting, overruling *Reimann v. Monmouth Consol. Water Co.*, 9 N.J. 134, 87 A.2d 325; *Sydney Grossman Hotel Corp. v. Lakewood Water Co.*, 27 N.J. 91, 141 A.2d 541; *Brooks v. City of Orange*, 61 N.J. 576, 297 A.2d 1; *J.H.M. Realty Corp. v. Town of Belleville*, 61 N.J. 577, 297 A.2d 2; calling into doubt *Baum v. Somerville Water Co.*, 84 N.J.L 611, 87 A. 14 (E. & A.); *Atlas Finishing Co. v. Hackensack Water Co.*, 10 N.J.Misc. 1197, 163 A. 20 (Sup.Ct.); rejecting *German Alliance Ins. Co. v. Home Water Supply Co.*, 226 U.S. 220, 33 S.Ct. 32, 57 L.Ed. 195; *Stuart v. Crestview Mut. Water Co.*, 34 Cal.App.3d 802, 110 Cal.Rptr. 543 (2 Dist.); *Libbey v. Hampton Water Works Co., Inc.*, 118 N.H. 500, 389 A.2d 434; *H.R. Moch Co., Inc. v. Rensselaer Water Co.*, 247 N.Y. 160, 159 N.E. 896; *Rose v. Sapulpa Royal Water Co.*, 631 P.2d 752 (Okla.). *Weinberg v. Dinger*, 106 N.J. 469, 524 A.2d 366 (1987).

14:9-2.3 Quality of water

Each water utility shall furnish water free of excess impurities or sedimentation and shall make every effort to assure that its product is potable and uncolored. Water utilities subject to regulation by the Board shall inform the Board within 48 hours of all instances where the quality of the water does not conform to all applicable Federal and State laws, rules, standards, or guidelines.

Amended by R.2001 d.133, effective May 7, 2001.

See: 33 N.J.R. 367(a), 33 N.J.R. 1392(b).

Added the second sentence.

14:9-2.4 Sewerage treatment

Each wastewater utility shall provide wastewater service in such a manner as to prevent escape of offensive odors, the overflow of effluent and the discharge of any untreated sewage. Each such utility shall operate its facilities in such a manner as to eliminate possible danger to public health and welfare.

Amended by R.2001 d.133, effective May 7, 2001.

See: 33 N.J.R. 367(a), 33 N.J.R. 1392(b).

Substituted "wastewater" for "sewer" throughout.

SUBCHAPTER 3. METERS

14:9-3.1 Testing of water meters

Each utility having more than 100 meters in use shall provide and maintain suitable and adequate facilities for testing its water service meters, including complete testing equipment of a form approved by the Board. Utilities may cooperate in arranging for such facilities. No equipment shall be used in testing meters unless it shall have been examined, calibrated and sealed by the New Jersey Office of Weights and Measures at least once every five years. Appropriate evidence of such examination, calibration and sealing shall be affixed to the equipment.

Amended by R.1996 d.207, effective May 6, 1996.

See: 28 N.J.R. 1190(a), 28 N.J.R. 2405(b).

Provided for examination of testing equipment at least every five years.

14:9-3.2 Periodic testing of water meters

(a) Unless otherwise authorized by the Board, no utility furnishing metered water service shall allow a meter to remain in service for a period longer, or for a registration greater, than that specified in the table below without checking it for accuracy and readjusting it if found to be incorrect beyond the limits established in N.J.A.C. 14:9-3.3:

1. $\frac{5}{8}$ inch meter, ten years or 750,000 gallons;
2. $\frac{3}{4}$ inch meter, eight years or 1,000,000 gallons;
3. One inch meter, six years or 2,000,000 gallons;
4. All meters above one inch, four years.

Amended by R.2001 d.133, effective May 7, 2001.

See: 33 N.J.R. 367(a), 33 N.J.R. 1392(b).

In (a), substituted "N.J.A.C. 14:9-3.3" for "Section 3 (Determination of water meter accuracy) of this subchapter".

14:9-3.3 Determination of Water Meter Accuracy

(a) A water meter shall be considered correct if, when flowing water at both intermediate and full flow capacities, as set forth in the American Water Works Association M-6 Manual, it shows an error which is not greater than one and one half percent.

(b) An error at any flow capacity in excess of one and one half percent shall be subject to an adjustment of charges as defined in N.J.A.C. 14:3-4.7.

Amended by R.1991 d.147, effective May 6, 1991.

See: 22 N.J.R. 618(a), 23 N.J.R. 1449(a).

Adopted one and one half percent error margin.

Case Notes

Water companies corroborative meter evidence supports customer billing. *Moretti v. Hackensack Water Company*, 97 N.J.A.R.2d (BRC) 7.

Customers were not overcharged for water consumption, even though bill in question was four times higher than average consumption on customers' account; bill reflected reading obtained from meter which testing determined to be accurate. *Miele and Mooney v. Shorelands Water Company*, 96 N.J.A.R.2d (BRC) 65.

Homeowner not entitled to credit to sewerage bill for water utilized in swimming pool and sprinkler system; no application for water diversion meter. *Perelman v. Atlantic City Sewerage Company*, 93 N.J.A.R.2d (BRC) 138.

No showing of water meter defect; no refund for overbilling. *Aabdollah v. New Jersey American Water Company*, 93 N.J.A.R.2d (BRC) 73.

Record established that meter readings and billings reflected water consumption; no overcharges. *Presidential Apartments v. Hackensack Water Company*, 93 N.J.A.R.2d (BRC) 68.

Record established that confusing billing procedures and malfunctioning remote register warranted elimination of adjusted bill. *Magley v. New Jersey—American Water Company*. 93 N.J.A.R.2d (BRC) 13.

SUBCHAPTER 4. (RESERVED)

14:9-6.2 Definitions

Unless the context clearly indicates otherwise, the following terms, when used in this subchapter, shall have the following meanings:

“Act” means the “Small Water Company Takeover Act”, N.J.S.A. 58:11-59 et seq.

“Actual or imminent public health problems” means any violations by a small water company of appropriate statutory and regulatory standards, including but not limited to the New Jersey Safe Drinking Water Regulations, N.J.A.C. 7:10-1 through 13, which adversely affects the quality, pressure or volume of water delivered as determined by the Department. Violations by a small water company of appropriate statutory and regulatory standards that do not adversely affect the quality, pressure or volume of water delivered as determined by the Department shall not be considered actual or imminent public health problems for the purposes of this subchapter, including but not limited to, aesthetic water quality problems or minor design deficiencies.

“BPU” means the New Jersey Board of Public Utilities.

“Capable” means financially and operationally able to provide safe, adequate and proper water service for the customers of the small water company to be acquired currently or in the foreseeable future. BPU shall be consulted by the Department concerning any public or private water systems’ financial status.

“Commissioner” means the Commissioner of Environmental Protection or his designated representative.

“Department” means the Department of Environmental Protection.

“Division” means the Division of Water Resources of the Department of Environmental Protection.

“Proximate” means and includes all public or private water companies, municipal utilities authorities established pursuant to N.J.S.A. 40:14B-1 et seq., municipalities or any other suitable governmental entities wherein the small water company provides service regardless of their ability to reasonably physically interconnect with the small water company to be acquired.

“Public Advocate” means the Department of the Public Advocate.

“Small water company” means any company, purveyor or entity, other than a governmental agency, that provides water for human consumption and which regularly serves less than 1,000 customer connections.

SUBCHAPTER 5. PRESERVATION OF RECORDS

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

(a) The Board of Public Utilities adopts the National Association of Regulatory Utility Commissioners’ (NARUC) 1985 “Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities,” incorporated herein by reference, as amended or supplemented, as its rules governing the preservation and destruction of records for all classes of water utilities subject to its jurisdiction and as a supplement to its uniform system of accounts for all classes of water utilities.

(b) Other rules or Orders of this Board providing for longer or shorter retention periods for specific records will supersede the NARUC regulations.

(c) This subchapter and the NARUC regulations applicable to water utilities shall also apply to wastewater utilities.

(d) Copies of the full text of the NARUC regulations are available for examination at the Board’s Offices at Two Gateway Center, Newark, New Jersey 07102. Additional copies of the NARUC regulations may be purchased from the National Association of Regulatory Utility Commissioners, 1101 Vermont Avenue NW, Washington, D.C. 20005.

R.1972 d.181, effective September 18, 1972.

See: 4 N.J.R. 241(b).

Amended by R.2001 d.133, effective May 7, 2001.

See: 33 N.J.R. 367(a), 33 N.J.R. 1392(b).

Rewrote the section.

SUBCHAPTER 6. SMALL WATER COMPANY TAKEOVER ACT REGULATIONS

14:9-6.1 Purpose

This subchapter implements the provisions of N.J.S.A. 58:11-59 et seq., commonly known as the “Small Water Company Takeover Act”. This subchapter establishes procedures by which a small water company that does not comply with appropriate statutory and regulatory standards concerning actual or imminent public health problems may be acquired or “taken over” by the most suitable public or private entity pursuant to a joint order issued by the New Jersey Department of Environmental Protection and the New Jersey Board of Public Utilities.