

SUBCHAPTER 3. ACCEPTING APPLICATIONS AND HOME STUDY

10:121C-3.1 Adoptive applicant

(a) The Division shall accept an application from, and provide home study services to, [any] an adult New Jersey resident interested in becoming an adoptive parent, only if the adult is interested in adopting a special needs child.

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

10:121C-3.2 Release of home studies

The Division shall release its completed home study to the licensed adoptive applicant or adoptive parent, upon written request signed by each adoptive applicant or adoptive parent. The Division shall redact third party information prior to release of the home study.

SUBCHAPTER 4. ADOPTIVE HOME SELECTION AND PLACEMENT PROCESS FOR SELECTED ADOPTIVE HOMES

10:121C-4.1 Criteria for adoptive home selection

(a) When a child's case goal becomes adoption and the child is in need of a selected adoptive home, the Division shall initiate efforts to identify or recruit an adoptive applicant or licensed adoptive applicant. Each licensed adoptive applicant [must] shall meet his or her own state's requirements to adopt a child.

(b) (No change.)

(c) The Division shall not discriminate in a child's adoptive placement based on the child's or the adoptive parent's race, color, national origin, age, gender, disability, marital status, sexual orientation, state of residence, or religion. This subsection shall not preclude the Division from adhering to the Indian Child Welfare Act of 1978 (ICWA), 25 U.S.C. § 1911. The Division shall not delay or deny the adoptive placement of a child due to the race, color, or national origin of either the child or the adoptive parent. These factors may be considered in selecting the licensed adoptive applicant for only the most compelling reasons related to a particular child's special or distinctive needs. The Division representative shall document when the race, color, or national origin of either the child or licensed adoptive applicant is considered in making the adoptive home selection and how these factors affected the selection. The documentation shall include any professional reports, such as therapists' reports, used in making the decision.

SUBCHAPTER 5. POST-PLACEMENT SERVICES AND FINALIZATION [OF ADOPTIVE PLACEMENT]

SUBCHAPTER 6. POST-ADOPTION SERVICES

10:121C-6.1 Post-adoption services available

(a) (No change.)

(b) [Post-adoption services, delivered either directly by the Division or through a Division-funded contract with a private agency, provide counseling or respite care, or both, to the adoptive child, the adoptive parents, and any other children in the adoptive family when any of those parties are having difficulty in personal or social adjustment to the extent that it is related to the adoption, with the] The type and duration of [the counseling being] post-adoptive services shall be determined by the [Division] Department or contract agency based on an individual case assessment.

PUBLIC UTILITIES (a)

BOARD OF PUBLIC UTILITIES

Water and Wastewater

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

Authorized By: New Jersey Board of Public Utilities, Robert M. Hanna, President; Jeanne M. Fox, Joseph L. Fiordaliso, and Mary-Anna Holden, Commissioners.

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.

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

BPU Docket Number: WX13020140.

Proposal Number: PRN 2013-137.

Comments may be submitted through December 6, 2013, by e-mail in Microsoft Word format, or in a format that can be easily converted to Word, to: rule.comments@bpu.state.nj.us or on paper to:

Kristi Izzo, Secretary
Board of Public Utilities
ATTN: BPU Docket Number WX13020140
44 S. Clinton Ave., 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

The agency proposal follows:

Summary

The Board of Public Utilities (Board) is proposing to readopt its rules governing water and wastewater utilities, found at N.J.A.C. 14:9. In accordance with N.J.S.A. 52:14B-5.1.c(2), these rules will expire on March 14, 2014.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

Following is a section-by-section summary of the rules proposed for readoption and the proposed amendments:

Subchapter 1. General Provisions and Definitions

N.J.A.C. 14:9-1.1 outlines the scope of Chapter 9, including the entities regulated, and provides a cross reference to the Board's rules for all utilities, N.J.A.C. 14:3. The Board is proposing an amendment to N.J.A.C. 14:9-1.1(a) that rectifies the incorrect N.J.A.C. 14:9-2 citation to the correct citation of N.J.A.C. 14:9-1.2.

N.J.A.C. 14:9-1.2 provides a list of defined terms that are commonly used throughout Chapter 9. The Board is proposing no changes.

Subchapter 2. Plant

N.J.A.C. 14:9-2.1 governs plant construction standards for water and wastewater utilities. The Board is proposing no changes.

N.J.A.C. 14:9-2.2 governs inspection of valves by water and wastewater utilities and the testing of hydrants by water utilities. The Board is proposing a correction 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' (NARUC) Record Retention Rules (2007). The Board is also proposing a clarification to N.J.A.C. 14:9-2.2(h), changing the cross-reference found in this subsection from N.J.A.C. 14:9-1.1 to N.J.A.C. 14:9-1.1(c).

Subchapter 3. Quality of Service

N.J.A.C. 14:9-3.1 governs the pressure and volume of water supplied by water utilities. The Board is proposing no changes.

N.J.A.C. 14:9-3.2 governs the quality of water provided by water utilities and requires water utilities to notify the Board when their water quality does not conform to all applicable laws or rules. The Board is proposing no changes.

N.J.A.C. 14:9-3.3 directs wastewater utilities to operate their facilities in accordance with NJDEP requirements, so as not to threaten public health or welfare. The Board is proposing an amendment to N.J.A.C. 14:9-3.3(a) that rectifies the missing cross-reference of “N.J.A.C. 7:14A” to be included with N.J.A.C. 7:10A.

#### Subchapter 4. Meters

N.J.A.C. 14:9-4.1 governs water utility meter testing. The Board is proposing no changes.

N.J.A.C. 14:9-4.2 governs water utility meter testing equipment. The Board is proposing a clarification to N.J.A.C. 14:9-4.2(c), which cross-references N.J.A.C. 14:3-4.4, which is the rule for examination, calibration, and sealing of all utility meter testing equipment. The existing language regarding the New Jersey Office of Weights and Measures and the five-year timeframe is proposed for deletion, and is replaced with a cross-reference to N.J.A.C. 14:3-4.4. It is necessary to make this change for consistency with existing N.J.A.C. 14:3-4.4. The language regarding evidence of the examination, calibration, and sealing of the meter testing equipment can be found at N.J.A.C. 14:3-4.4. As the language is now repetitive, it will be deleted.

#### Subchapter 5. Preservation of Records

N.J.A.C. 14:9-5.1, which incorporates by reference the latest version of the National Association of Regulatory Utility Commissioners’ (NARUC) “Regulations to Govern the Preservation of Electric, Gas and Water Utilities” and imposes these requirements on water and wastewater utilities, is being proposed for reoption without substantive amendment. The version date is being updated, as well as the website for NARUC.

#### Subchapter 6. Small Water and Small Sewer Company Takeover Act Rules

N.J.A.C. 14:9-6.1, identifies the purposes of the subchapter, which is to govern the takeover of small water and small sewer companies that fail to adhere to applicable statutory and regulatory standards concerning the availability and quality of potable water or the discharge of sewage to the State’s waters. The Board is proposing no changes.

N.J.A.C. 14:9-6.2 defines terms used in the subchapter. The Board proposes to amend two definitions for precision and clarity: “party to the proceeding” and “Rate Counsel.” The change in definitions is necessary as a result of the “Division of Rate Counsel” no longer falling under the jurisdiction of the “Department of the Public Advocate,” but being located in, but not of, the Department of the Treasury. The definition of “party to the proceeding” is amended to delete “Department of the Public Advocate” and replace it with “Division of Rate Counsel.” The definition of “Rate Counsel” is amended to properly represent its location in, but not of, the New Jersey Department of the Treasury pursuant to N.J.S.A. 52:27EE-54, or any successor agency.

N.J.A.C. 14:9-6.3 provides for liberal construction and future amendment of the rules; N.J.A.C. 14:9-6.4 provides that the subchapter applies to all small water and sewer companies in New Jersey; and N.J.A.C. 14:9-6.5 provides for the severability of any portion of the rules. The Board is proposing an amendment to N.J.A.C. 14:9-6.3 replacing “BPU” with “the Board,” for consistency with the rest of Chapter 9.

N.J.A.C. 14:9-6.6 governs the scope of the subchapter. The Board is proposing no changes.

N.J.A.C. 14:9-6.7 sets out the enforcement options available to the Department prior to the implementation of procedures under the Act. The Board is proposing no changes.

N.J.A.C. 14:9-6.8 requires a joint informational public hearing by the Department and the Board and specifies notice, conduct, and content of the hearings. The Board is proposing no changes.

N.J.A.C. 14:9-6.9 requires a joint public hearing report be prepared. The Board is proposing that the Department’s and Board’s websites at N.J.A.C. 14:9-6.9(b) be updated to: <http://www.nj.gov/dep> and <http://www.nj.gov/bpu>. It also is proposing an amendment to N.J.A.C. 14:9-6.9(f) replacing “BPU” with “the Board,” for consistency with the rest of Chapter 9.

N.J.A.C. 14:9-6.10 describes the joint takeover order. The Board is proposing the correction of a typographical error at N.J.A.C. 14:9-6.10(g)2 changing “(h)1” to “(g)1.”

N.J.A.C. 14:9-6.11 pertains to the methodology of determining acquisition costs in the absence of an agreement between the acquiring entity and the troubled system(s). The Board is proposing an amendment to N.J.A.C. 14:9-6.11(a) that replaces the incorrect cross-reference to N.J.A.C. 14:9-6.8(j) with N.J.A.C. 14:9-6.9(a).

N.J.A.C. 14:9-6.12 pertains to contesting a joint takeover order. The Board is proposing an amendment to N.J.A.C. 14:9-6.12(c) correcting a grammar error by removing an unnecessary comma after Department. The Board is also proposing an amendment to N.J.A.C. 14:9-6.12(c)4 that replaces the incorrect cross-references to N.J.A.C. 14:9-6.8(o) and (p) with N.J.A.C. 14:9-6.9.

N.J.A.C. 14:9-6.13 pertains to compliance with the joint takeover order. The Board is proposing no changes.

N.J.A.C. 14:9-6.14 provides that the Board may allow an acquiring entity to collect a differential rate from customers of the noncomplying small water and sewer companies. The Board is proposing no changes.

N.J.A.C. 14:9-6.15 incorporates the provisions of the Act that protect an acquiring entity from liability for hazardous substance discharges that occurred prior to the acquisition of the small water company or sewer company. The Board is proposing an amendment to N.J.A.C. 14:9-6.15 that replaces the regulatory cross-reference to N.J.A.C. 7:19-5.14 with the statutory cross-reference of N.J.S.A. 58:11-63.2.

N.J.A.C. 14:9-6.16 incorporates provisions of the Act authorizing the Board and/or the Department to levy penalties for violations on an owner or operator of a small water company, small sewer company, or both, who fails to comply with the Act, the rules, or a joint takeover order. The Board is proposing no changes.

#### Subchapter 7. Purchased Water and Wastewater Adjustment Clauses

N.J.A.C. 14:9-7.1 provides for Board approval of purchased water adjustment clauses (PWACs) and purchased wastewater adjustment clauses (PSTACs). The Board is proposing no changes.

N.J.A.C. 14:9-7.2 defines certain terms that are used in Subchapter 7. The Board is proposing no changes.

N.J.A.C. 14:9-7.3 governs the submittal of petitions for purchased water and wastewater adjustment clauses, the time for filing petitions, and true up schedules. The Board is proposing no changes.

N.J.A.C. 14:9-7.4 details the requirements for year-end true up schedules. The Board is proposing no changes.

N.J.A.C. 14:9-7.5 requires a separate listing of PWAC and PSTAC charges on a customer’s bill. The Board is proposing no changes.

N.J.A.C. 14:9-7.6 sets forth the requirements for a petition submitted under the subchapter, whether for approval of an initial or renewed PWAC, a PSTAC, or a true up schedule. The Board is proposing an amendment to N.J.A.C. 14:9-7.6(d) that replaces the incorrect cross-reference to N.J.A.C. 14:3-13.2 with N.J.A.C. 14:3-13.3.

N.J.A.C. 14:9-7.7 determines how the water or wastewater utility calculates the amount it is authorized to collect from the customer under a PWAC or PSTAC. The Board is proposing an amendment to N.J.A.C. 14:9-7.7(a) that replaces the incorrect cross-reference to N.J.A.C. 14:9-7.5 with N.J.A.C. 14:9-7.6.

#### Subchapter 8. Combined Domestic Water and Fire Suppression Service

N.J.A.C. 14:9-8.1 defines certain terms that are used in Subchapter 8. The Board is proposing an amendment to the definition of “domestic water service” to replace the incorrect cross-reference to N.J.A.C. 7:10-1.3 with N.J.A.C. 7:10.

N.J.A.C. 14:9-8.2 governs required water tariff filings and amendments regarding this subchapter. The Board is proposing an amendment to N.J.A.C. 14:9-8.2(a) to replace the incorrect cross-reference to N.J.A.C. 14:1-11 with N.J.A.C. 14:3-1.3.

N.J.A.C. 14:9-8.3 governs the tariff language for multi-use service. The Board is proposing an amendment to N.J.A.C. 14:9-8.3(b) that replaces the incorrect cross-reference to N.J.A.C. 14:3-3.6 with N.J.A.C. 14:3-3A.4(j).

#### Subchapter 9. Consumer Confidence Reports

N.J.A.C. 14:9-9.1 requires that each water utility submit to the Board annual Consumer Confidence Reports pursuant to the Safe Drinking Water Act Amendments of 1996. The Board is proposing no changes.

**Subchapter 10. Distribution System Improvement Charge**

N.J.A.C. 14:9-10 establishes a voluntary distribution system improvement charge for the water utilities. The Board is proposing no changes.

N.J.A.C. 14:9-10.1 establishes the purpose, scope, and general provisions of the Distribution System Improvement Charge (“DSIC”).

N.J.A.C. 14:9-10.2 sets forth the definitions in the subchapter.

N.J.A.C. 14:9-10.3 outlines what investments are eligible for recovery under a DSIC and explains what spending requirements must be met before a water utility can recover them under an approved DSIC.

N.J.A.C. 14:9-10.4 details the process by which the Board shall authorize the implementation of a DSIC charge and outlines certain requirements for a DSIC foundational filing.

N.J.A.C. 14:9-10.5 details the DSIC filing reporting requirements and establishes a time-frame for DSIC filing.

N.J.A.C. 14:9-10.6 sets forth the ability to recover DSIC-eligible plant investments during a base rate case.

N.J.A.C. 14:9-10.7 sets forth when a water utility shall stop accessing a DSIC charge and what documentation must be submitted to the Board to assure that the water utility is earning the approved amount on its investment.

N.J.A.C. 14:9-10.8 defines the terms used in calculating the DSIC rate, and sets forth both the DSIC and DSIC cap formulas.

N.J.A.C. 14:9-10.9 details requirements for a water utility to bill for a DSIC and sets forth the information needed for billing purposes.

**Social Impact**

The rule proposed for readoption with amendments will have a beneficial social impact. The rules will continue an existing regulatory framework that ensures that New Jersey citizens have access to safe, adequate, and proper water and wastewater utility services at reasonable rates. Clarifications have been made over the years throughout the rules, which make the rules easier to understand for both the regulated community and the public. The existing regulatory framework in New Jersey, conserves water, improves water quality, provides steady improvements in service reliability through planned replacements, and stimulates job creation, while reducing service interruptions.

**Economic Impact**

The rules proposed for readoption with amendments, repeals and new rules will have a minor economic impact on water and wastewater utilities. In complying with the rules, regulated water and wastewater utilities will incur expenses such as equipment maintenance, installation costs, and costs of testing and monitoring, as well as administrative costs. However, the costs incurred by utilities in complying with this chapter are such as would be required to provide an acceptable standard of safe, adequate and proper service. Further, these expenses may, with Board approval, be included in the utilities’ rates.

**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.

**Jobs Impact**

Most utilities subject to the rules proposed for readoption with amendments have already hired the staff necessary to comply with the rules. However, Rutgers University reports that for every \$1 million of Distribution System Improvement Charge project spending, authorized by Subchapter 10, a total of 7.9 full-year jobs are created in New Jersey assuming key materials were manufactured in New Jersey. A total of 6.5 full-year jobs are created if key materials were manufactured outside of New Jersey.

**Agriculture Industry Impact**

The rules proposed for readoption with amendments are likely to have little or no impact on the agriculture industry in New Jersey. While there are some agricultural operations in the State that are large water users, many of these use private wells as their water source. To the extent that agriculture operations are utility customers, they would be affected by these rules in the same way as any other water or wastewater customer.

The Board does not expect the rules proposed for readoption with amendments to have any impact on the agriculture industry in New Jersey.

**Regulatory Flexibility Analysis**

A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. The Board estimates that there are approximately 24 regulated small water and 14 regulated small sewer companies in New Jersey. The rules will impose minimal reporting, recordkeeping, and compliance requirements on small businesses, which are required under the requirements of the existing rules. Subchapter 1 provides the general provisions and definitions found in the subchapter. Subchapter 2 imposes compliance requirements on all of the regulated entities pertaining to the construction of plant and inspection of property. Subchapter 3 imposes compliance requirements on water and wastewater utilities pertaining to pressure and volume of water service, quality of water, and quality of wastewater service. Subchapter 4 imposes compliance requirements on water utilities pertaining to water meter testing, water meter testing equipment, and frequency of water meter testing. In addition, Subchapter 5 imposes compliance requirements on all of the regulated entities subject to this chapter pertaining to the preservation of records. Subchapter 6 imposes the rules regarding the Small Water Company and Small Sewer Company Takeover Act. Subchapter 7 imposes compliance requirements on water and wastewater utilities pertaining to the filing of an adjustment clause. Subchapter 8 requires all water utilities to amend their tariffs to clearly allow their customers to choose to utilize a single water line for both domestic water and fire protection service. Subchapter 9 imposes requirements on water utilities pertaining to consumer confidence reports. Finally, Subchapter 10, the DSIC is a voluntary mechanism implemented by the water utilities, which will not require additional reporting, recordkeeping, or other compliance requirements on any small businesses as is contemplated by the New Jersey Regulatory Flexibility Act.

The Board has made every effort to ensure that these rules are understandable and can be complied with, without the help of outside consultants. Only in those instances where the economic or operational viability of a small water company is called into question under Subchapter 6 would additional costs for litigation and recordkeeping be imposed on the company. However, those companies that would be subject to such rules would already be suffering operational or economic problems of such magnitude that their continued ability to provide safe, adequate and proper service to their customers would be in jeopardy. In such circumstances, a “takeover” would alleviate noncompliance with applicable statutes and regulations, as well as provide the small water company with appropriate compensation for its system.

The Board has weighed the impact of the rules proposed for readoption with amendments on small business and has concluded that the need to provide safe, adequate, and proper service outweighs any burdens that may be imposed by the rules. Accordingly, the Board is of the opinion that no distinction between large and small businesses can or should be made.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments will have no impact on affordable housing in New Jersey and will not evoke a change in the average costs associated with housing because the rules uniformly govern the water and wastewater utilities in the State.

**Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and

Redevelopment Plan in New Jersey because the rules uniformly govern the water and wastewater utilities in the State.

**Full text** of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:9.

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

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-[2]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 [five] **six** years.

(g) (No change.)

(h) A utility may petition the Board for a waiver of this [provision] **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 [has been examined, calibrated and sealed by the New Jersey Office of Weights and Measures at least once in the five years prior to its use in testing] **complies with N.J.A.C. 14:3-4.4**. [Appropriate evidence of such examination, calibration and sealing shall be affixed to the equipment.]

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) [1985] **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 [[www.naruc.org](http://www.naruc.org)] **<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 [Department of the Public Advocate,] Division of Rate Counsel.

"Rate Counsel" means the Division of Rate Counsel, [within the Department of the Public Advocate, as established under P.L. 2005, c. 155] **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 [BPU] **the Board** to discharge their statutory functions.

(b) The Department and [BPU] **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 [regulations] **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.bpu.state.nj.us/home/home.shtml>] **<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 [BPU] **the Board** may forward a copy of the joint report to the Office of Administrative Law to provide notice that the Department and [BPU] **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 [(h)1] **(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 [pursuant to] **required by N.J.A.C. 14:9-[6.8(j)]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-[6.8(o) and (p)]**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.A.C. 7:19-5.14] **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-[13.2]**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-[7.5]**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[-1.3].

## 14:9-8.2 Required water tariff filings and amendments

(a) A water utility that is required under N.J.A.C. [14:1-11] **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-[3.6]**3A.4(j)**."

(c)-(g) (No change)

## TRANSPORTATION

### (a)

#### MOTOR VEHICLE COMMISSION LICENSING SERVICE

##### New Jersey Licensed Motor Vehicle Dealers

##### Proposed Amendments: N.J.A.C. 13:21-15

Authorized By: Motor Vehicle Commission, Raymond P. Martinez,  
Chairman.

Authority: N.J.S.A. 39:10-4 and 39:10-19 et seq.

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

Proposal Number: PRN 2013-138.

Submit comments by December 6, 2013 to:

Kate Tasch, Administrative Practice Officer  
Regulatory and Legislative Affairs  
Motor Vehicle Commission  
225 East State Street  
PO Box 162  
Trenton, NJ 08666-0162

The agency proposal follows:

#### Summary

This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Since this notice is not listed in the agency rulemaking calendar, the public comment period for this notice will be 60 days.

The proposed amendments clarify that, to be a "proper person" under N.J.S.A. 39:10-19, any applicant intending to sell new motor vehicles must meet the requirements of N.J.S.A. 56:10-27 and 28 by submitting a copy of the applicant's franchise agreement(s) with the motor vehicle manufacturer(s) whose makes and models the applicant is franchised to sell. Such applicants also must meet the requirements of N.J.S.A. 39:10-19 with respect to their place of business. The proposed amendments also clarify portions of N.J.A.C. 13:21-15 by correcting grammatical and typographical errors and replacing obsolete references to the Director and to the Division of Motor Vehicles, respectively, with references to the Chief Administrator, who has assumed most of the powers and duties of the Director, and the Commission, which has assumed the powers and duties of the Division of Motor Vehicles.

N.J.A.C. 13:21-15.2, Application, subsection (d), is proposed for amendment to substitute "his or her" for "his," and in subsection (f) to reflect that the Chief Administrator has replaced the Director (of the former Division of Motor Vehicles) and to substitute "Commission" for "MVC." Subsection (l) is proposed for amendment to substitute "his or her" for "his." New subsection (m) is proposed, which requires the sellers of new motor vehicles to submit a copy of his, her, or its franchise agreement to the Commission, to bring motor vehicle dealers into compliance with N.J.S.A. 56:10-27 and 28, which require the sellers of new motor vehicles to sell new motor vehicles through franchisees only, except as otherwise stated in the statute. Existing subsection (m) will also be recodified as subsection (n).

N.J.A.C. 13:21-15.3, Proper person, is proposed for amendment at paragraph (a)2, to substitute "he or she" for "he," and new paragraph (a)4 is added to require that an applicant for a license to sell new motor vehicles be a franchisee under N.J.S.A. 56:10-26.d, for the reasons stated with respect to the proposed amendment of N.J.A.C. 13:21-15.2(m). Existing paragraph (a)4 will be recodified as subsection (b).

N.J.A.C. 13:21-15.4, Established place of business, is proposed for amendment. New paragraph (a)1 is added to require that sellers of new motor vehicles conform to the requirements of N.J.S.A. 39:10-19, which requires a minimum of 1,000 square feet in which to display motor vehicles, and, either included in the 1,000 square feet or immediately contiguous thereto, clearly identified fixed facilities to display at least two automobiles, and space to maintain equipment for the servicing of motor vehicles. New paragraph (a)2, includes information pertaining to space requirements, is relocated from subsection (a) and proposed for amendment to specify that licensees shall mean licensees selling used motor vehicles exclusively. Subsection (g) is proposed for amendment to clarify that business records are to be made available to the Commission, rather than to personnel.

N.J.A.C. 13:21-15.5, Grounds for rejection, suspension, or revocation of a dealer license or issuance of a cease and desist order, and 15.6, Transfer of ownership without title; presentation or reassignment of altered title documents; suspension; period of suspension; refusal to renew license, are proposed for amendment to correct clerical and grammatical errors, to substitute the Chief Administrator for Director, and to substitute "his or her" for "his" and "him or her" for "him."

N.J.A.C. 13:21-15.7, Responsibilities of licensee, is proposed for amendment at subsection (b) to substitute "his or her" for "his" and to substitute "the Commission" for "Commission personnel."