

## NOTICE OF INTENT

### Department of Health

### Office of Public Health

#### Sanitary Code / Water Supplies

#### Community Water System Accountability Rule and Part XII Amendments

[LAC 51:XII.101, 151, 169, 177, 319, 335, 401, 403, 405, 407, 409, 411 and 1905]

Under the authority of R.S. 40:4, 40:5, and 40:5.9.1 and in accordance with R.S. 49:950 *et seq.*, the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). When effective, the proposed amendments to Part XII will assist LDH-OPH in ensuring the sustainability of the drinking water infrastructure through an accountability process for community water systems.

In accordance with Act 98 of the 2021 Regular Legislative Session, the intent of the proposed adoption of Chapter 4 (Community Water System Accountability Rule) of Part XII is to provide an accountability process for community water systems by establishing a letter grade schedule with clear and objective standards and expectations for grading community water systems. Act 98 requires LDH-OPH to publish the first letter grades by January 1, 2023. Section 409 proposes a new requirement for community water systems to have a rate study conducted every 5 years by a LDH-approved qualified entity which includes the Louisiana Rural Water Association; thereby, reducing the fiscal impact of compliance with this proposed requirement for small community water systems.

The remaining amendments in the proposed rule are updates and clarifications which do not impose any new requirements. The proposed amendment to Section 169 eliminates the oil lubrication restriction for well line shafts pump settings less than 400 feet and eliminates the well pump spacer requirement, both of which have now been determined to be against current practices. The proposed amendment to Section 177 removes a requirement that conflicts with the American Water Works Association standard for granular activated carbon when it is used for treating disinfection by-products. The proposed amendment to Section 319 corrects a typo from the previous rulemaking. The proposed amendment to Section 335 updates the minimum system pressure requirement as previously adopted in 2018 and updates an outdated code citation. The proposed amendment to Section 1905 clarifies that the Tier 1 public notice is required to be issued to customers within 24 hours as required by federal regulations.

The effective date of the proposed adoption of Chapter 4 and the additional amendments to Part XII is anticipated to coincide with the promulgation of the final rule which is, barring any unexpected delays, currently expected to occur on April 20, 2022.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is proposed to be amended as follows:

## Title 51

### PUBLIC HEALTH—SANITARY CODE

#### Part XII. Water Supplies

##### Chapter 1. General

##### §101. Definitions

[formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the *Sanitary Code*, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

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*Community Water System*—community water supply.

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*LSPC*—Louisiana State Plumbing Code, i.e., Part XIV (Plumbing) of this Code (LAC 51:XIV) became null and void on January 1, 2016 per Act 836 of the 2014 Regular Legislative Session. See the Louisiana State Uniform Construction Code (LAC 17:I.Chapter 1) for state plumbing regulations.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:258(B), R.S. 36:254(B)(7), R.S. 40:4(A)(8), R.S. 40:4.13(D)(1)(2), R.S. 40:5(A) (2)(3)(5)(6)(17)(20), and R.S. 40:1281.8.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:484 (March 2009), LR 35:1240 (July 2009), LR 38:2375 (September 2012), LR 38:2793 (November 2012), LR 38:3232 (December 2012), amended by the Department of Health, Office of Public Health, LR 43:84 (January 2017), LR 44:296 (February 2018), effective August 1, 2018, LR 44:1251 (July 2018), effective August 1, 2018, LR 48:

##### Subchapter B. General Design

##### §151. Disinfection

A. Water from new systems, or from any new part(s) of existing systems shall not be furnished for consumer’s use until all wells, pipes, tanks, and equipment which can convey or store potable water are disinfected in accordance with American Water Works Association (AWWA) procedures as required in §§169, 225, and 245 of this Part.

**AUTHORITY NOTE:** Promulgated in accordance with the provisions of R.S. 40:4(A)(8), 40:4.13.D.(1)(2) and 40:5(A)(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:303 (February 2018), effective August 1, 2018, amended LR 48:

### **Subchapter C. Source Development**

#### **§169. Groundwater**

A. – H.1.b. ...

c. use lubricants that meet NSF International/American National Standards Institute (NSF/ANSI) Standard 60 or use well water itself as a lubricant.

H.1.d. – H.3.c. ...

i. conform to §235 of this Part; where such standards exist, or in the absence of such standards, conform to applicable product standards and be acceptable to the state health officer. Any lubricants, fittings, brackets, tape or other appurtenances shall meet NSF/ANSI Standards 60/61, where applicable; and

ii. be capable of supporting the weight of the pump, piping, water and appurtenances and of withstanding the thrust, torque and other reaction loads created during pumping. The actions of fatigue from repeated starting and stopping of the pump shall be considered when choosing a pipe and fittings.

H.4. – H.8. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(8), 40:4.13.D.(1)(2) and 40:5(A)(2)(3)(5)(6)(7)(17).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 44:305 (February 2018), effective August 1, 2018, amended LR 48:

### **Subchapter D. Treatment**

#### **§177. Filtration Design**

A.1. – A.6.c.iii ...

iv. Granular activated carbon (GAC) shall be in accordance with AWWA B604 and the design of shall meet the following:

(a). There shall be provisions for a free chlorine residual and adequate contact time in the water following the filters and prior to distribution (See §177.C and §177.D).

(b). There shall be means for periodic treatment of filter material for control of bacterial and other growth.

(c). Provisions shall be made for frequent replacement or regeneration. Regeneration of GAC shall be in accordance with AWWA B604.

A.6.c.v. – A.10.a ...

b. filtered water shall be used for backwashing filters except in the application of GAC filters for removing formed disinfection by-products;

c. washwater pumps shall be in duplicate except in the application of GAC filters or an alternate means of obtaining washwater is available;

A.10.d. – G. ...

**AUTHORITY NOTE:** Promulgated in accordance with the provisions of R.S. 40:4(A)(8), 40:4.13.D.(1)(2) and 40:5(A)(2)(3)(5)(6)(7)(17).

**HISTORICAL NOTE:** Promulgated by the Department of Health, Office of Public Health, LR 44:313 (February 2018), effective August 1, 2018, amended LR 48:

### **Chapter 3. Water Quality Standards**

#### **§319. Significant Deficiencies Identified in Sanitary Surveys**

A. – C. ...

D. For all public water systems, except as otherwise specified in this Part, failure to comply with any of the following requirements has been determined by the state health officer to be a significant deficiency and shall be corrected in accordance with §319.B of this Part:

1. – 15. ...

16. §344. of this Part;

17. – 26. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:4(A)(8), 40:4.13(D)(1)(2) and R.S. 40:5(A)(2)(3)(5)(6)(17)(20).

**HISTORICAL NOTE:** Promulgated by the Department of Health, Office of Public Health, LR 43:85 (January 2017), amended LR 44:345 (February 2018), effective August 1, 2018, LR 44:1251 (July 2018), effective August 1, 2018, amended LR 48:

#### **§335. Distribution**

**[formerly paragraph 12:012-1]**

A. – C. ...

D. [formerly paragraph 12:012-3] Where pumps are used to draw water from a water supply distribution system or are placed in a system to increase the line pressure, provision must be made to limit the pressure on the suction side of the pump to not less than 20 psi (pounds per square inch) gauge. Where the use of automatic pressure cut-offs is not possible, such pumps must draw water from a tank, supplied with water from a water distribution system through an air gap that complies with ASME Standard A112.1.2-2004.

E. [formerly paragraph 12:012-4] All public water supplies shall be operated and maintained to provide a minimum positive pressure of 20 psi gauge at all service connections at all times.

**AUTHORITY NOTE:** Promulgated in accordance with the provisions of R.S. 40:4(A)(8), R.S. 40:5(A)(5)(6), and R.S. 40:1285.8.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002), amended LR 38:2794 (November 2012), amended by the Department of Health, Office of Public Health, LR 48:

### **Chapter 4. Community Water System Accountability Rule**

#### **§401. Statement of Purpose**

A. Pursuant to Act 98 of the 2021 Regular Legislative Session, the LDH-OPH adopts a letter grade schedule for community water systems to provide an accountability process to support drinking water infrastructure sustainability for the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5.A.(2)(3)(5)(6)(17)(20) and R.S. 40:5.9.1.D.(1).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

### **§403. General Provisions**

A. The requirements established in this Chapter are applicable to community water systems as defined in this Part and under R.S. 40:5.8.

B. For each active community water system (CWS), LDH-OPH shall determine and publish an annual letter grade and score in accordance with this Chapter. The CWS annual letter grade shall be based on the CWS final score calculated in accordance with §407 of this Part using the letter grade schedule standards specified in §405 of this Part.

1. The letter grades and scores published January 1, 2023 are preliminary and shall be finalized and republished no later than May 1, 2023 on the LDH-OPH website. For subsequent years starting in 2024, the final letter grades and scores shall be published on the LDH-OPH website by May 1 each year. The published letter grades and scores are not subject to change after May 1 until the next annual letter grade and score is published.

C. Community water systems shall include their final letter grade and score in their annual Consumer Confidence Report (a.k.a. Annual Water Quality Report) that is posted on the water systems website.

D. For any community system that receives a letter grade of “D” or “F”, LDH-OPH shall give notice to the State Bond Commission, the Louisiana Public Service Commission, Louisiana Legislative Auditor and the Attorney General in accordance with Act 98 of the 2021 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5.A.(2)(3)(5)(6)(17)(20) and R.S. 40:5.9.1.D.(1).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

### **§405. Letter Grade Schedule**

A. The letter grade and score for community water systems shall be based on the following standards and point deductions:

1. For federal water quality violations history:

a. Five points shall be deducted for each maximum contaminant level (MCL) violation incurred during the graded year;

b. Five points shall be deducted for each Lead and Copper Rule treatment technique (TT) violation inclusive of failure to install corrosion control treatment or failure to maintain optimal water quality parameters for optimized corrosion control treatment incurred for the last monitoring period; and

c. An additional 10 points shall be deducted for non-compliance with an administrative order issued for MCL or TT violations.

d. The total points deducted for federal water quality violations shall not exceed 30.

2. For state violations history:
  - a. One point shall be deducted for each chlorine residual violation incurred during the graded year;
  - b. Five points shall be deducted for failure to have a duly-certified operator at a ground water system;
  - c. Ten points shall be deducted for failure to have a duly-certified operator at a surface water system; and
  - d. Five points shall be deducted for a water outage and/or a boil notice issued by the state health officer.
  - e. The total points deducted for state violations shall not exceed 10.
3. For water system financial sustainability:
  - a. Five points shall be deducted for failure to have and submit a rate study (per §§409 and 411 of this Part) or failure to have implemented an adequate rate (as indicated by the system’s rate study);
  - b. Five points shall be deducted for failure to have a current audit (if applicable);
  - c. Ten points shall be deducted if a fiscal administrator is appointed for the municipality; and
  - d. Five points shall be deducted for circumstances that affect the fiscal control of the community water system.
  - e. The total points deducted for financial sustainability shall not exceed 10.
4. For operation and maintenance performance history:
  - a. Three points shall be deducted for each unresolved significant deficiency. Such deficiencies shall include lack of cross-connection control, record keeping, maintenance and other applicable deficiencies specified in §319.D of this Part.
  - b. The total points deducted for operation and maintenance performance history shall not exceed 15.
5. For infrastructure violations:
  - a. Five points shall be deducted for each unresolved significant deficiency. Such deficiencies shall include frequent low water pressure events, no standby power, single source, failed components and other applicable significant deficiencies specified in §319.D of this Part.
  - b. The total points deducted for infrastructure violations shall not exceed 20.
6. For customer satisfaction:
  - a. One point shall be deducted for each validated water complaint (per event) concerning water quality or quantity received either by the water system or LDH-OPH for the graded year; or
  - b. Ten points shall be deducted for failure to submit the complaint log by the deadline specified in §411 of this Part.

- c. The total points deducted for customer satisfaction shall not exceed 10.
- 7. For level of secondary contaminants:
  - a. Five points shall be deducted for either iron or manganese detected (LDH-OPH test results) in the finished drinking water above their respective secondary maximum contaminant level (0.3 mg/L for iron and 0.05 mg/L for manganese).
  - b. The total points deducted for secondary contaminants shall not exceed five.
- B. Extra points may be granted and added to the final score of the community water system in accordance with this subsection.
  - 1. Five points can be granted for having and submitting supporting documentation for any of the following:
    - a. an asset management plan;
    - b. a storage assessment and maintenance program;
    - c. a well assessment and maintenance program;
    - d. participation in a capacity development program approved by LDH-OPH; or
    - e. participation in a management training program approved by LDH-OPH.
  - 2. The total points added for extra points shall not exceed 10.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5.A.(2)(3)(5)(6)(17)(20) and R.S. 40:5.9.1.D.(1).

**HISTORICAL NOTE:** Promulgated by the Department of Health, Office of Public Health, LR 48:

**§407. Calculation of Letter Grade and Score**

- A. The score for each community water system shall be calculated per the following method:
  - 1. Using the Letter Grade Schedule in §405 of this Part, sum the points deducted for each standard specified in §405.A.1-7.b and subtract the total point deduction from 100. Extra points can be added to the final score if granted per §405.B of this Part. See Table 407.A.1 (below) for an example of the grade score calculation.

<b>Table 407.A.1 Letter Grade Score Calculation Example</b>	
<b>Grade Standards</b>	<b>Point Deductions</b>
1. Federal Water Quality Violations	0
2. State Violations	2
3. Financial Sustainability	0
4. Operation and Maintenance Performance	3
5. Infrastructure Violations	0
6. Customer Satisfaction	5

7. Level of Secondary Contaminants	5
Total Point Deduction	15
Extra Points	5
Score = 100 – Total Point Deduction + Extra Points (Score = 100 – 15 + 5)	90
Letter Grade	A

B. The letter grade for each community water system shall be assigned based on Table 407.B (below) using the score calculation specified in §407.A.1 of this Part.

<b>Table 407.B</b>	
<b>Letter Grade</b>	<b>Point Value</b>
<b>A</b>	≥ 90
<b>B</b>	80 - 89
<b>C</b>	70 - 79
<b>D</b>	60 - 69
<b>F</b>	≤ 59

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5.A.(2)(3)(5)(6)(17)(20) and R.S. 40:5.9.1.D.(1).

**HISTORICAL NOTE:** Promulgated by the Department of Health, Office of Public Health, LR 48:

**§409. Financial Sustainability Requirements**

A. Community water systems shall have a rate assessment or study performed every 5 years by a qualified entity approved by the state health officer. Qualified entities include, but are not limited to, a Louisiana licensed professional engineer, a certified public accountant (CPA), or the Louisiana Rural Water Association (LRWA).

1. A rate study shall include a rate analysis completion report containing the following:
  - a. the completed rate analysis;
  - b. the rate analysis summary letter that includes the rate analysis findings and recommendations to maintain sustainability; and
  - c. documentation that includes the dates that the rate analysis was presented to the legally responsible person for the community water system and the decision to implement or reject the rate analysis findings.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5.A.(2)(3)(5)(6)(17)(20) and R.S. 40:5.9.1.D.(1).



HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

#### **§411. Reporting Requirements**

A. Community water systems shall submit the following information to LDH-OPH in a format approved by LDH-OPH by January 31 of each year starting 2023 unless specified otherwise in this Section.

1. A rate study performed on or after April 20, 2017 and in accordance with §409.A of this Part along with the current water rates for the community water system and any documentation authorizing and adopting the last rate increase. Unless updated, a rate study is not required to be submitted every year.

2. The last annual report (as submitted to Louisiana Secretary of State) and the prior year financial report for the company owning the community water system, or a prior year audit report (as submitted to the Louisiana Legislative Auditor) for the political subdivision (e.g., municipality) over the community water system.

3. A demonstrated flushing plan with verification of implementation if directed by LDH-OPH to have a flushing program to mitigate poor water quality in the distribution system as required by Louisiana Revised Statutes 40:1281.12.

4. A complaint log containing all water related complaints received by the community water system for the previous calendar year as required by Louisiana Revised Statutes 40:1281.12.

5. The documentation for items listed in §405.B.1 of this Part if the community water system wants to receive extra points per §§405.B and 407.A.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8), R.S. 40:5.A.(2)(3)(5)(6)(17)(20) and R.S. 40:5.9.1.D.(1).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

### **Chapter 19. Public Notification Rule**

#### **§1905. Tier 1 Public Notice**

A. Delivery. When a Tier 1 public notice is required under the National Primary Drinking Water Regulations, §913, §1139.B, or §1317.A.1 of this Part, and after consultation with the Office of Public Health (see Subsection C of this Section for after-hours contact procedures), the public water system shall, unless directed otherwise by the Office of Public Health in writing, furnish a notice to customers via broadcast media (such as radio and television stations) and daily newspapers serving the area as soon as possible but not later than 24 hours after the public water system learns of the violation or situation. The public water system shall also ensure that the actual public notice prepared by the water system is published in a daily or weekly newspaper serving the area as soon as possible but no later than 48 hours after the violation or failure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 35:486 (March 2009), amended by the Department of Health, Office of Public Health, LR 48:

### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have the following impact:

1. The effect on the stability of the family.

There will be no effect.

2. The effect on the authority and rights of parents regarding the education and supervision of their children.

There will be no effect.

3. The effect on the functioning of the family.

There will be no effect.

4. The effect on the family earnings and family budget.

The proposed rule may increase the monthly water bill for families if served drinking water by a CWS that does not currently meet the rate study requirement. The CWS may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover some or all of the rule implementation costs. The actual effect on water bills is hard to predict due to the unknown financial status of each CWS. Therefore, the effect of the rule on family budget is unknown.

5. The effect on the behavior and personal responsibility of children.

There will be no effect.

6. The ability of the family or local government to perform the function as contained in the proposed rule.

There will be no effect for the family.

The proposed rule adopts a new requirement for community water systems potentially becoming effective as soon as April 20, 2022. Local government that own/operate a community water system (CWS) may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover the cost of complying with this rule. The increase in revenue collection needed for compliance with this rule is not estimable as it would vary and depend on the CWS's size and current financial status.

### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have the following impact:

1. The effect on household income, assets, and financial security.

The proposed rule may increase the monthly water bill for households if served drinking water by a CWS that does not currently meet the rate study requirement. The CWS may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover some or all of the rule implementation costs. The actual effect on water bills is hard to predict due to the unknown financial status of each CWS. Therefore, the effect of the rule on households is unknown.

2. The effect on early childhood development and preschool through postsecondary education development.

There will be no effect on childhood development and preschool through postsecondary education development.

3. The effect on employment and workforce development.

The proposed rule may cause an increase in competition to hire and retain a qualified water system operator. Water system operators that focus on improving water quality and minimizing violations can help the CWS to receive a better grade. This may cause an increase in employment of qualified operators to properly operate, maintain, monitor, assess and take appropriate corrective actions to remain in compliance with the safe drinking water regulations that will affect the CWS's letter grade and score.

4. The effect on taxes and tax credits.

There will be no effect on taxes and tax credits

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

There will be no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### **Small Business Impact Statement**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of the proposed rule on small businesses has been considered. It is estimated that the proposed action is not expected to have a significant adverse economic impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory flexibility methods in drafting the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impacts of the proposed rule on small businesses.

### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, there should be no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service; no total direct and indirect effect on the cost to the providers to provide the same level of service; or no overall effect on the ability of the provider to provide the same level of service.

### **Request for Comments**

Interested persons may submit written comments on the proposed rule. Such comments must be received no later than Monday, February 28, 2022 at COB, 4:30 p.m., and should be addressed to Amanda Ames, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped

or hand-delivered, please deliver to the Bienville Building, 628 N. 4<sup>th</sup> Street - Room 125, Baton Rouge, LA 70802.

### **Public Hearing**

LDH-OPH will conduct a public hearing at 1 pm on Monday, February 28, 2022, in Room 118 of the Bienville Building, 628 North 4<sup>th</sup> Street, Baton Rouge, LA. Parking is available to the public in the 7-story Galvez Parking Garage which is located between N. 6<sup>th</sup> and N. 5<sup>th</sup> Streets / North and Main Streets (cater-corner and across the street from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to the Bienville Building’s front security desk. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Joseph Kanter, MD, MPH  
State Health Officer  
and  
Dr. Courtney N. Phillips  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: COMMUNITY WATER SYSTEM ACCOUNTABILITY RULE AND PART XII AMENDMENTS**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

In accordance with Act 98 of the 2021 Regular Legislative Session, the proposed rule adopts an accountability process for community water systems by establishing a letter grade schedule to determine a letter grade and score for each community water system (CWS). As required by Act 98, the letter grade schedule is based on seven minimum standards that include federal water quality violations, state violations, financial sustainability, operation and maintenance performance, infrastructure violations, customer satisfaction, and secondary contaminants. For financial sustainability, the proposed rule establishes a new requirement for community water systems to have a rate study conducted every 5 years by an approved entity established in the proposed rule. The proposed rule also amends existing provisions of Part XII of the State Sanitary Code (LAC 51:XII) to provide updates and clarifications which do not impose any new requirements for public water systems.

State and local agencies that own/operate a CWS may incur costs to comply with the rate study requirement in the proposed rule. The cost for these agencies is dependent upon on the size of the CWS and if the CWS does not have a current rate study (i.e., rate study conducted on/after April 20, 2017). LDH estimates an annual cost of \$800 for small CWSs and \$1,200 for large CWSs to have a rate study conducted every 5 years. There are 387 small CWSs and 61 large CWSs that are owned/operated by a state and local agency. LDH estimates a total annual cost of \$383,000 for all 448 CWSs to comply with the rate study requirement. This

estimate assumes that all 448 CWSs will incur costs for an updated rate study every 5 years, in the worst case scenario. However, any CWS that has incurred debt through the United States Department of Agriculture (USDA) or the LDH-Drinking Water Revolving Loan Fund (DWRLF) since April 20, 2017 would already have a rate study that potentially can be used. Also, the Louisiana Rural Water Association (LRWA) is an approved entity that conducts rate studies at no cost for CWSs. Therefore, there may be no fiscal impact for those CWSs initially or at all.

Louisiana Department of Health – Office of Public Health (LDH-OPH) will incur approximately \$2,000 in costs associated with publishing this proposed rule.

## II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

If a state or local government owned and operated CWS incurs any costs, it is expected that their costs will either be absorbed by the affected agency or the agency will raise its rate on the sale of water to any customers served by the public water system.

## III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Persons, small businesses, or non-governmental groups that own/operate a CWS may incur costs to comply with the rate study requirement in the proposed rule. The cost for these is dependent on the size of the CWS and if the CWS does not have a current rate study (i.e., rate study conducted on/after April 20, 2017). LDH estimates an annual cost of \$800 for small CWSs and \$1,200 for large CWSs to have a rate study conducted every 5 years. There are 501 small CWSs and 14 large CWSs that are owned/operated by persons, small businesses, or non-governmental groups. LDH estimates a total annual cost of \$418,000 for all 515 CWSs to comply with the rate study requirement. This estimate assumes that all 515 CWSs will incur costs for an updated rate study every 5 years, in the worst case scenario. However, any CWS that has incurred debt through the United States Department of Agriculture (USDA) or the LDH-Drinking Water Revolving Loan Fund (DWRLF) since April 20, 2017 would already have a rate study that potentially can be used. Also, the Louisiana Rural Water Association (LRWA) is an approved entity that conducts rate studies at no cost for CWSs. Therefore, there may be no fiscal impact for those CWSs initially or at all.

## IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule may cause an increase in competition to hire and retain a qualified water system operator. Water system operators that focus on improving water quality and minimizing violations can help the CWS to receive a better grade. This may cause an increase in employment of qualified operators to properly operate, maintain, monitor, assess and take appropriate corrective actions to remain in compliance with the safe drinking water regulations that will affect the CWSs letter grade and score.

Joseph Kanter, MD, MPH  
State Health Officer

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office