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This public document is published in accordance with R.S. 49:954.1. The publication date for this issue of the *Louisiana Register* is April 20, 2022. The Office of the State Register is the official state entity for all certified copies of the *Louisiana Register* and the content contained herein.

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RULE

Department of Health Office of Public Health

Sanitary Code—Community Water System Accountability
(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, the state health officer, acting through the Department of Health, Office of Public Health (LDH-OPH), has amended Part XII (Water Supplies) of the Sanitary Code (LAC 51). When effective, the 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 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 establishes a new requirement for community water systems to have a rate study conducted every five years by a LDH-approved qualified entity which includes the Louisiana Rural Water Association; thereby, reducing the fiscal impact of compliance with this requirement for small community water systems.

The remaining amendments in the Rule are updates and clarifications which do not impose any new requirements. The 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 amendment to §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 amendment to §319 corrects a typo from the previous rulemaking. The amendment to §335 updates the minimum system pressure requirement as previously adopted in 2018 and updates an outdated code citation. The amendment to §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 adoption of Chapter 4 and the additional amendments to Part XII is April 20, 2022.

For the reasons set forth above, Part XII (Water Supplies) of the Sanitary Code (LAC 51:XII) is amended as follows. This Rule is hereby adopted on the day of promulgation.

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.

* * *

Community Water System—community water supply.

* * *

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.

* * *

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 48:1101 (April 2022).

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 48:1101 (April 2022).

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.

1.d. - 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.

4. - 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 48:1101 (April 2022).

Subchapter D. Treatment

§177. Filtration Design

A. - A.6.c.iii.(b). ...

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.

6.c.v. - 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.3. ...

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 48:1102 (April 2022).

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 48:1102 (April 2022).

§335. Distribution

[formerly paragraph 12:012-1]

A. - C.2.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 48:1102 (April 2022).

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 48:1102 (April 2022).

§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 48:1102 (April 2022).

§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 48:1102 (April 2022).

§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.

Grade Standards	Point Deductions
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.

Letter Grade	Point Value
A	≥ 90
B	80 - 89
C	70 - 79

Table 407.B	
Letter Grade	Point Value
D	60 - 69
F	≤ 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 48:1103 (April 2022).

§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 48:1104 (April 2022).

§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 48:1104 (April 2022).

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.

* * *

B. – C. ...

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 48:1104 (April 2022).

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

2204#047

RULE

**Department of Insurance
 Office of the Commissioner**

Regulation 120—Administrative and Agency
 Proceedings Instituted Against a License
 (LAC 37:XIII.Chapter 181)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has promulgated Regulation 120—Administrative and Agency Proceedings Instituted Against a License. Regulation 120 establishes three types of notice requirements applicable to administrative and agency proceedings instituted against a license, including (1) notice of wrongful conduct, (2) notice of regulatory action, and (3) notice of summary suspension. Regulation 120 also prescribes the time delays for each of the respective notices sent to a licensee. Lastly, Regulation 120 provides a mechanism for requesting a stay, and it further addresses related procedures governing administrative actions against