

# Community Water System Accountability Rule

Act 98 of 2021 Legislative Session (R.S. 40:5.9 and 5.9.1)

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(LAC 51:XII Chapter 4)

# Act 98 of 2021 Legislative Session – R.S. 40:5.9 and 5.9.1

Per Act 98

- ▶ RS 40:5.9.C - Receivership. Requires receiver to develop and submit an improvement plan within 90 days which may include raising rates, consolidating or other measure to ensure sustainability of the system.
- ▶ RS 40:5.9.1 - required LDH to establish, adopt and implement a letter grade schedule to grade community water systems to provide an accountability process to support drinking water sustainability for the citizens of Louisiana.

# Act 98 of 2021 Legislative Session – R.S. 40:5.9.1

Per Act 98 - Systems with a Letter Grade “D” or “F”

- ▶ LDH is required to notify State Bond Commission, Louisiana Public Service Commission, Louisiana Legislative Auditor, and Attorney General.
- ▶ May be subject to the following:
  - Enforcement action under RS 40:5.9 – includes new Receivership provisions;
  - Funding oversight by Legislative Auditors; and
  - New debt restricted to water system improvement only.
- ▶ Water revenue restricted to water system improvement and sustainability only.

# Accountability Rule - General Provisions (§401)

- ▶ Applicable to all active community water systems (CWSs)
- ▶ LDH must determine and publish an annual letter grade and score
- ▶ Timeline:
  - January 1, 2023 – LDH publishes preliminary letter grades/scores.
  - January 31, 2023 – CWSs submits rate study, annual/financial or audit report, complaint log, and any extra point documentation.
  - May 1, 2023 – LDH determines and publishes final letter grades/scores on the LDH-OPH website.
  - May 1, 2024 and subsequent years – Final letter grades/scores will be published on the LDH-OPH website each year.
- ▶ After May 1<sup>st</sup> - The published letter grades and scores **are not subject to change** until the next annual letter grade/score is published.
- ▶ CWS must include their final letter grade/score in their annual Consumer Confidence Report (a.k.a. Annual Water Quality Report) that is posted on the water system's website.

# Letter Grade Schedule (§405)

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

# Grading Schedule

➤ There are multiple point deductions within each standard that can accumulate but cannot exceed the maximum\* point deduction for the standard.

➤ The maximum extra points that can be granted is 10.

Letter Grade Schedule - Standards	Point Deductions	
<b>1. Federal Water Quality Violations</b>		<b>30*</b>
For each maximum contaminant level (MCL) violation incurred for the graded year	5	
For each Lead and Copper Rule Treatment Technique (TT) violation for failure to install corrosion control treatment (CCT) or to maintain optimal water quality parameters for CCT	5	
For non-compliance with an administrative order issued for MCL or TT violations	10	
<b>2. State Violations</b>		<b>10*</b>
For each chlorine residual violation incurred during the graded year [10 point max]	1	
For failure to have a duly-certified operator at a ground water system	5	
For failure to have a duly-certified operator at a surface water system	10	
For a water outage and/or a boil notice issued by the state health officer [10 point max]	5	
<b>3. Financial Sustainability</b>		<b>10*</b>
For failure to have and submit a rate study or failure to have implemented an adequate rate (as indicated by the system's rate study)	5	
For failure to have a current audit (if applicable)	5	
For a fiscal administrator that is appointed for the municipality	10	
For circumstances that affect the fiscal control of the community water system	5	
<b>4. Operation and Maintenance Performance</b>		<b>15*</b>
For each unresolved significant deficiency, including lack of cross-connection control program, record keeping, maintenance and other applicable deficiencies	3	
<b>5. Infrastructure Violations</b>		<b>20*</b>
For each unresolved significant deficiency, including frequent low water pressure events, no standby power, single source, failed components and other applicable significant deficiencies	5	
<b>6. Customer Satisfaction</b>		<b>10*</b>
For each validated water complaint concerning water quality or quantity received by the water system or LDH for the graded year	1	
For failure to submit the complaint log by January 31	10	
<b>7. Level of Secondary Contaminants</b>		<b>5*</b>
For either iron or manganese in the finished drinking water > SMCL (0.3 mg/L for iron and 0.05 mg/L for manganese)	5	
<b>Extra Points</b>		<b>10</b>
For an asset management plan; storage assessment & maintenance program; or well assessment & maintenance program	5	
For participation in a capacity development program; or management training program	5	

# 1. For Federal Water Quality Violations History:

Maximum points deducted for federal water quality violations – **30**

- ▶ 5 points – deducted for each maximum contaminant level (MCL) violation incurred during the graded year;
  - Includes E.coli, DBP and Arsenic MCL violations.
- ▶ 5 points - deducted for each Lead and Copper Rule treatment technique (TT) violation including 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
- ▶ 10 points – deducted for noncompliance with an administrative order issued for noted above MCL or TT violations.

## 2. For State Violations History:

Maximum points deducted for state violations – **10**

- ▶ 1 point – deducted for each chlorine residual violation incurred during the graded year;
- ▶ 5 points – deducted for failure to have a duly-certified operator at a ground water system (as cited in a survey or violation letter);
- ▶ 10 points – deducted for failure to have a duly-certified operator at a surface water system at all hours of operation (as cited in survey or violation letter); and
- ▶ 5 points – deducted for a water outage and/or a boil notice issued by the state health officer.
  - Includes Boil notice issued for failure to address a source of contamination and/or E.coli in the well.

### 3. For Water System Financial Sustainability:

Maximum points deducted for financial sustainability – **10**

- ▶ 5 points – deducted for failure to have and submit a rate study or failure to have implemented an adequate rate (as indicated by the system's rate study);
- ▶ 5 points – deducted for failure to have a current audit (if applicable);
- ▶ 10 points – deducted if a fiscal administrator is appointed for the municipality;
- ▶ 5 points – deducted for circumstances that affect the fiscal control of the community water system.
  - Misuse and/or loss of water revenue

## 4. For Operation and Maintenance Performance History:

Maximum points deducted for operation and maintenance performance history – **15**

- ▶ 3 points - deducted for each unresolved significant deficiency (cited 8/1/2018 or after).
  - Such deficiencies shall include lack of cross-connection control, record keeping, maintenance and other applicable significant deficiencies including but not limited to:
    - ◆ Unpermitted modification or construction of system Infrastructure;
    - ◆ Outdated monitoring plan;
    - ◆ Failure to have an approved laboratory for onsite monitoring of analytes not required to be tested by a certified lab;
    - ◆ Inadequate labeling of water treatment chemicals;
    - ◆ Failure to properly plug an abandoned well;
    - ◆ No day tank for Fluoride;
    - ◆ Treatment chemicals are not labeled;
    - ◆ Well pump lubricant is not safe (NSF 61);
    - ◆ Liquid Chlorine or other treatment chemical is not NSF 61 certified.

# 5. For Infrastructure Violations:

Maximum points deducted for infrastructure violations – **20**

- ▶ 5 points – deducted for each unresolved significant deficiency (cited 8/1/2018 or after).
  - Such deficiencies shall include frequent low water pressure events, no standby power, single source, failed components and other applicable significant deficiencies including but not limited to:
    - ◆ Inadequate flood protection;
    - ◆ Pathway of contamination (hole in the sanitary seal and/or storage tank);
    - ◆ Source of contamination/safe distance (fuel or raw sewage in close proximity to well);
    - ◆ Direct connection with non-potable source;
    - ◆ Lack of security (no or broken fence);
    - ◆ Critical component in poor condition (corroded, leaking, etc.);
    - ◆ Other significant physical issue.

## 6. For Customer Satisfaction:

Maximum points deducted for customer satisfaction – **10**

- ▶ 1 point – 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
- ▶ 10 points – deducted for failure to submit the complaint log to LDH by January 31<sup>st</sup> of each year starting in 2023
- ▶ What is a “validated water complaint”?
  - Confirmed water quality or quantity issue – exclude ones that are confirmed plumbing only related.
    - ◆ Low pressure;
    - ◆ Taste, Odor, Color (including dirty water or brown water); and
    - ◆ Low or high chlorine residual.

## 7. For Level of Secondary Contaminants:

Maximum points deducted for secondary contaminants – **5**

- ▶ 5 points – 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)



# Extra Points (§405.B)

Extra points may be granted and added to the final score of the community water system as follows.

# Maximum points added for extra points – 10

5 points – granted for having and submitting supporting documentation for:

- ▶ an asset management plan;
  - Must include an asset inventory – location, purchased/installed, age, condition, lifespan, and value/cost (replacement and repair).
  - See <https://www.epa.gov/dwcapacity/about-asset-management>
- ▶ a storage assessment and maintenance program;
  - Must include an inventory and frequency and dates of assessments and maintenance.
- ▶ a well assessment and maintenance program;
  - Must include an inventory and frequency and dates of assessment (e.g. annual drawdowns, flow test, etc.) and maintenance.

# Maximum points added for extra points – 10

Continued

5 points – granted for having and submitting supporting documentation for:

- ▶ participation in a capacity development program approved by LDH-OPH; or
- ▶ participation in a management training program approved by LDH-OPH
  - 4-hour management training provided LDH-approved vendors include LRWA, TMB and Communities Unlimited – contact the vendor to set up a local training or to register for a scheduled training.
  - all decision makers must attend the training to be granted the extra points.

# Calculation of Letter Grade and Score (§407)

# The score for each community water system shall be calculated per the following method:

- ▶ Using the Letter Grade Schedule, sum the points deducted for each standard and subtract the total point deduction from 100.
- ▶ Extra points can be added to the final score if granted.
- ▶ Letter Grade Scale:

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

# Examples - Letter Grade and Score Calculation

Report Card – Grade A	Point Deductions
1. Federal Water Quality Violations -- none	0
2. State Violations -- 2 low chlorine events	2
3. Financial Sustainability -- Good standing - submitted a rate study and implemented an adequate rate	0
4. Operation and Maintenance Performance -- one unresolved Significant Deficiency for no CCCP	3
5. Infrastructure Violations -- none	0
6. Customer Satisfaction -- submitted complaint log and had five validated water complaint events	5
7. Level of Secondary Contaminants -- iron exceeds SMCL in finished water	5
Total Deductions	15
Bonus Points – participated in management training	5
<b>Score</b> = 100 – Total Deductions + Bonus Points (100 – 15 + 5)	<b>90</b>

Report Card – Grade F	Point Deductions
1. Federal Water Quality Violations -- 4 DBP MCL violations and under AO for DBP MCLs	30
2. State Violations -- 2 low chlorine events	2
3. Financial Sustainability -- no rate study and no current audit	10
4. Operation and Maintenance Performance -- none	0
5. Infrastructure Violations -- no standby power	5
6. Customer Satisfaction -- no water complaints	0
7. Level of Secondary Contaminants -- iron/manganese < SMCLs	0
Total Deductions	47
Bonus Points -- none	0
<b>Score</b> = 100 – Total Deductions + Bonus Points (100 – 47 + 0)	<b>53</b>

# Financial Sustainability Requirements (409)

## Rate Study

- ▶ Community water systems shall submit a Rate Study (performed on/after April 20, 2017) to LDH by **January 31, 2023**. You can submit the Rate Study via email to [Water.Grade@la.gov](mailto:Water.Grade@la.gov).
- ▶ 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)\*.
- ▶ A rate study shall include a rate analysis completion report containing the following:
  - the completed rate analysis;
  - the rate analysis summary letter that includes the rate analysis findings and recommendations to maintain sustainability; and
  - 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.

# Reporting Requirements (411)

Must submit the following to LDH-OPH in a format approved by LDH-OPH by January 31 of each year starting 2023 unless specified otherwise:

- ▶ A **rate study** performed on or after April 20, 2017 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.
- ▶ 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.
- ▶ 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.
- ▶ A complaint log containing all water related complaints received by the community water system for the previous calendar year.

Submit this information via email to [Water.Grade@la.gov](mailto:Water.Grade@la.gov).

# Questions?

## Reminders:

- ▶ 1/1/2023 – LDH posts preliminary grades on LDH website;
- ▶ 1/31/2023 – CWSs submit\* rate study; annual & financial reports or audit report; complaint log; flushing plan; and extra credit documentation to LDH;
- ▶ 1/31/2023 – CWSs submit any documentation for resolved significant deficiencies;
- ▶ 5/1/2023 – LDH posts final grades on LDH website;
- ▶ 7/1/2023 – CWSs include letter grade and score with the CCR that is posted on their website.

\*To [Water.Grade@la.gov](mailto:Water.Grade@la.gov).