



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

February 8, 2016

TO: The Honorable John A. Alario, Jr., President, Louisiana Senate
The Honorable Charles E. "Chuck" Kleckley, Speaker of the House of Representatives
The Honorable David Heitmeier, Chairman, Senate Health and Welfare Committee
The Honorable Scott M. Simon, Chairman, House Health and Welfare Committee

FR: Dr. Rebekah E. Gee, Secretary

RE: Required Legislative Oversight Committee Report on Proposed Rulemaking

In accordance with the provisions of the Administrative Procedure Act, (R.S. 49:950, *et seq.*), the Department of Health and Hospitals, Office of Public Health (DHH/OPH) proposes to promulgate a rule to finalize the requirements of the emergency rule (the "ER") concerning disinfection of public water systems initially promulgated on November 6, 2013, and presently in effect as a result of subsequent re-declarations. The proposed rule amends Chapter 3 (Water Quality Standards), Chapter 9 (Louisiana Total Coliform Rule), Chapter 11 (Surface Water Treatment Rule), Chapter 15 (Approved Chemical Laboratories/Drinking Water) and Chapter 19 (Public Notification Rule) of Part XII (Water Supplies) of Title 51 (Public Health—Sanitary Code) of the Louisiana Administrative Code (LAC).

This action is being taken in accordance with the intent of Act 573 of 2014 and HCR 54 of 2015. Jimmy Guidry, M.D., State Health Officer, and I have determined that the amendments to Part XII are necessary to protect the public from water provided by public water systems that may be contaminated with the *Naegleria fowleri* (brain-eating amoeba) parasite.

This rule maintains the requirements of the ER and strengthens the monitoring requirements for public water systems using chloramine disinfection. This rule maintains the ER's required minimum disinfection residual level of 0.5 milligrams per liter (mg/L) for public water systems. Furthermore, this rule maintains the ER's twenty-five (25) percent increase to the number of required disinfectant residual measurements taken monthly or quarterly. The ER requires public water systems using surface water source to provide public notice upon the second consecutive month having disinfectant residuals less than 0.5 mg/L in over 5.0 percent of the measurements taken each month. This rule keeps that public notification requirement for surface water systems and extends that public notification requirement to public water systems using ground water. This rule also requires public water systems using chloramines as a disinfectant to monitor for nitrification, and to take corrective action as needed, in accordance with an approved nitrification plan. This nitrification plan requirement is based on DHH's confirmation of nitrification occurring in the distribution systems of the affected public water systems at the time of the above-mentioned amoeba detections. This rule is supported by scientific data and recommendations from the federal Centers for Disease Control and Prevention (CDC) relative to the control of the *Naegleria fowleri* parasite, which has thus

far been found in seven Louisiana public water systems. Maintaining the increased minimum disinfectant levels in a public water system's finished water storage tanks and its entire distribution system, is necessary to help ensure that the parasite will be killed and made non-pathogenic should it be present in any public water systems not yet specifically tested for the presence of amoeba.

The Department published a Notice of Intent for the proposed rule in the December 20, 2015 issue of the Louisiana Register (Volume 41, No. 12). A public hearing was held on January 25, 2016. There were 8 individuals in attendance at the hearing meeting and no verbal comments were given during the public hearing. There was a total of 3 written comment email/letters received. The comments focused on clarifying certain rule requirements, not adopting the American Water Works Association's (AWWA) M56 Manual on Nitrification Control and requesting additional time to comply with the rule.

The Department anticipates adopting the published Notice of Intent as a final Rule in the March 20, 2016 issue of the Louisiana Register.

We are enclosing the following documents:

- 1) copy of the Notice of Intent as published with the published cover page of the Fiscal and Economic Impact Statement;
- 2) the January 25, 2016 public hearing certification and attendance roster based upon the published Notice of Intent;
- 3) copy of written comment(s) received; and
- 4) copy of agency's responses.

Should you have any questions, please contact Jimmy Guidry, State Health Officer, Louisiana Department of Health and Hospitals, at (225) 342-3417.

REG:JG:AAL:CEB:ceb

Attachment

cc: Dr. Jimmy Guidry, State Health Officer
Dr. David Holcombe, Assistant Secretary, OPH
Avis Richard-Griffin, DHH/OPH Rulemaking Liaison Officer
Amanda Laughlin, Chief Engineer, Engineering Services Section, OPH