



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064 · PHONE: 225-342-5840 · FAX: 225-342-5843

January 11, 2021

MEMORANDUM

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2nd BESE District

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Member-at-Large

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Member-at-Large

TO: Senator Patrick Page Cortez, Senate President
Representative Clay Schexnayder, Speaker of the House
Senator Cleo Fields, Chair, Senate Committee on Education
Representative Raymond E. Garofalo, Chair, House Committee on Education

FROM: Shan N. Davis, Executive Director
Board of Elementary and Secondary Education

RE: Summary Report on Board of Elementary and Secondary Education Proposed Rulemaking

Pursuant to R.S. 49:968(D)(1)(b), the Board of Elementary and Secondary Education hereby submits to you this summary report and announces its plan to proceed with rulemaking by finalizing the December 20, 2020, Notice of Intent that was promulgated on pages 1709-1710 of the *Louisiana Register*.

The Board has received no comments or requests for a public hearing and has not conducted a hearing pursuant to R.S. 49:953(A)(2)(a).

The Board has made no change to the proposed Rule.

Subject to legislative oversight by either the House Committee on Education or Senate Committee on Education, the Board anticipates adopting the Notice of Intent as a final Rule in the March 20, 2021, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

Please contact Shannon Rawson at (225) 342-5841 if the Board may be of any assistance to you concerning this Rule.

SND:slr

Attachment (1)

- c: Shalyric Self, Secretary, Senate Committee on Education
- Cheryl Serrett, Analyst, Senate Committee on Education
- Elizabeth Borne, Legislative Analyst, House Committee on Education
- Lisa Lovello, Legislative Analyst, House Committee on Education
- Ryan Gremillion, Policy Director, Louisiana Department of Education
- Shan N. Davis, Executive Director, BESE
- Kevin Calbert, Communications Manager, BESE

Shan N. Davis
Executive Director

Cade Brumley
State Superintendent

and subject matter. Formative assessments may include assessments purchased through vendors, assessments that are embedded in high-quality instructional materials, and teacher-made assessments. Local school districts may incur costs or workload adjustments to the extent they need to contract or develop formative assessments, however this is indeterminable. Given the variability in the types of formative assessments, it is unknown how the use of this data will affect evaluation results for principals and administrators.

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

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Teachers and administrators initially rated as ineffective may benefit from additional support from school administrators that are not required to conduct a second evaluation for certain personnel during the 2020-21 academic year. To the extent this results in improved performance evaluations, teachers and administrators could potentially receive a salary increase in the 2021-22 academic year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
2012#040

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 131—Alternative Education
Schools/Programs Standards (LAC 28:CXLIX. 2101)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposed to amend LAC 28:CXLIX (Bulletin 131). Proposed revisions revise the submission date for the annual report on alternative education schools and programs in Louisiana.

**Title 28
EDUCATION**

**Part CXLIX. Bulletin 131—Alternative Education
Schools/Programs Standards**

**Chapter 21. Alternative Site Authorization and
Approval**

§2101. Approval for Alternative Schools or Programs

A. - A.2.a. ...

b. alternative schools and programs report by January.

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:402 (March 2019), LR 47:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption,

repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, January 9, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 131—Alternative Education
Schools/Programs Standards**

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

The proposed rule change is not anticipated to create implementation costs or savings to state or local governmental units. The proposed revision would shift the required submission of an annual LDE report on alternative education schools and programs from October to January.

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

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioncaux
Deputy Superintendent
2012#041

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

2020 Annual Incorporation by Reference of Certain Federal Air Quality Regulations (LAC 33:III.505, 507, 2160, 3003, 5116, 5122, 5311, and 5901)(AQ389ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.505, 507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log #AQ389ft).

This Rule is identical to federal regulations found in 40 CFR Parts 60, 61, 63, 68, and 72 as well as 40 CFR 70.6(a)

and 40 CFR 51, Appendix M, which are applicable in Louisiana. For more information regarding the federal requirement, contact Deidra Johnson at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

In order for Louisiana's air quality regulations to remain equivalent to federal air quality regulations, certain regulations in the most current Code of Federal Regulations (CFR) must be incorporated in the Louisiana Administrative Code (LAC). This rulemaking is also necessary to maintain LDEQ's authority to implement, administer, and enforce standards delegated to Louisiana by the Environmental Protection Agency. LAC Title 33, Part III incorporates by reference (IBR) a number of federal regulations in 40 CFR Parts 60, 61, 63, 68, and 72 as well as 40 CFR 70.6(a) and 40 CFR 51, Appendix M as they existed in the CFR on July 1, 2019. Any exceptions and/or modifications to the IBR are explicitly prescribed in LAC 33:III. This Rule updates the date reference of the federal regulations incorporated to July 1, 2020. The basis and rationale for this Rule are to incorporate by reference the aforementioned federal regulations as they apply to affected sources in Louisiana. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

A. The Acid Rain Program regulations, published in the Code of Federal Regulations at 40 CFR part 72, July 1, 2020, are hereby incorporated by reference.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429, 2436 (October 2005), LR 32:1598 (September 2006), LR 33:2083 (October 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:746 (April 2018), LR 46:893 (July 2020), LR 46:

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519,