

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of Louisiana State Police
Breath and Blood Alcohol Analysis Methods and Techniques
(LAC 55:I.555 and 583)

In accordance with the provisions of La. R.S. 32:663 relative to the authority of Louisiana Department of Public Safety to promulgate and enforce rules pursuant to approval of testing methods, the Louisiana Department of Public Safety, Louisiana State Police hereby proposes to amend rules under Title 55 Part I §555 and §583, in relation to Breath and Blood Alcohol Analysis to prohibit the blood alcohol results from including a value range or measure uncertainty. Additionally, the proposed rule in relation to Analytical Procedures prohibits a quantification result from including a value range or measurement uncertainty in the event a quantification result of a drug and/or metabolite is reported. Modification is necessary to allow for results to meet national standards as well as consideration for future legislation regarding quantification of a drug and/or metabolite.

Title 55
Public Safety
Part I. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter B. Analysis of Blood

§555. Certified Techniques of Analyst

A. – D. ...

E. Results shall be expressed in terms of percent w/v (grams percent) that is, grams of alcohol per 100 milliliters of blood rounded downward to the second decimal place, for example, 0.237 grams percent shall be reported as 0.23 grams percent. Blood alcohol results are prohibited from including a value range or measurement uncertainty.

F. – H. 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:259 (March 1985), LR 14:360 (June 1988), LR 17:675 (July 1991), repromulgated LR 17:798 (August 1991), amended LR 26:2624 (November 2000), LR 37:1416 (May 2011), LR 44:95 (January 2018), LR XX:XXXX (August 2019).

Title 55
Public Safety
Part I. State Police
Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques
Subchapter C. Analysis of Blood and Urine for Controlled Dangerous Substances

§583. Analytical Procedures

A. ...

- B. Positive identification of an analyte shall at a minimum be based on the possible presence of the analyte or the analyte class in the screening test and its presence in the confirmatory test. Confirmation shall be based on the identification of at least three major ions with that of a reference analyte. Correlation between ion ratios of the base peak and another major peak shall be within 20 percent for gas chromatography/mass spectrometry procedures and within 30 percent for liquid chromatography/mass spectrometry procedures. Retention times between the analyte in question and the reference analyte shall be “within + or = 2 percent” for gas chromatography/mass spectrometry procedures and “within + or – 6 seconds or + or – 10 percent” for liquid chromatography/mass spectrometry procedures. If a quantification result of a drug and/or metabolite is reported, the quantification results is prohibited from including a value range or measurement uncertainty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000), amended LR 37:1417 (May 2011), LR 44:1272 (July 2018), LR XX:XXXX (August 2019).

FAMILY IMPACT STATEMENT

The Effect of this rule on the Stability of the Family. This rule will have no effect on the stability of the family.

The Effect of this rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

The Effect of this rule on the Functioning of the Family. This rule will have no effect on the functioning of the family.

The Effect of this rule on Family Earnings and Family Budget. This rule will have no effect on family earning and family budget.

The Effect of this rule on the Behavior and Personal Responsibility of Children. This rule will have no effect on the behavior and personal responsibility of children.

The Effect of this rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

POVERTY IMPACT STATEMENT

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

PROVIDER IMPACT STATEMENT

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

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

PUBLIC COMMENTS

Interested persons may submit written comments to Laura C. Hopes, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, Louisiana 70806. She is responsible for responding to inquiries regarding this proposed Rule.

REQUEST FOR PUBLIC HEARING

Requests for a public hearing must be submitted in writing either via email or written correspondence. Requests for a public hearing shall be sent to Laura.hopes@la.gov or to Laura C. Hopes, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, Louisiana 70806. The deadline for submitting a request for public hearing is September 10, 2019. All requests for a public hearing sent via written correspondence must be received by September 10, 2019. A public hearing will be held on Tuesday, September 24, 2019 at 10:00 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, Louisiana 70806. If the requisite number of comments are not received, the hearing will be cancelled. Please call and confirm the hearing will be conducted before attended.

FISCAL AND ECONOMIC IMPACT STATEMENT

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the de minimis cost of promulgation for FY 19-20.

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

It is anticipated that the implementation of this proposed rule will not affect revenue collections.

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

It is anticipated that implementation of this proposed rule will not have economic cost or benefits to directly affected persons or non-governmental groups for FY 19-20, FY 20-21, and FY 21-22.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.