



GOVERNOR

DEPUTY SECRETARY

State of Louisiana
Department of Public Safety and Corrections
Public Safety Services

March 21, 2017

House Judiciary Committee
Representative Katrina R. Jackson, Chairwoman

Senate Judiciary B Committee
Senator Gary Smith, Chairman

Re: Summary Report per Rules proposed by the Liquefied Petroleum Gas Commission to amend LAC 55:IX.107 with regards to general requirements of permit holders to include a change in filing fees and to amend Sections 113 & 159 with regards to establishing a new permit for brokers/special vendors of liquefied petroleum gas.

Dear Chairwoman Jackson and Chairman Smith,

The Department of Public Safety, Liquefied Petroleum Gas Commission, hereafter referred to as the “Commission”, hereby submits the following summary report pursuant to La. R.S. 49:968(D)(1)(b) and asserts its intentions to proceed with rule-making by finalizing the January 20, 2017 Notice of Intent that you were advised of by letter dated January 10, 2017.

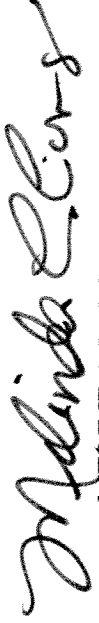
The Notice of Intent is located on page 179 of the January 2017 *Louisiana Register*, Vol. 43, No. 01, which is attached hereto and labeled as Exhibit “A”. However, please note that in Paragraph 3, the Editor states: “The text of this proposed rule may be viewed in the Emergency Rule section of the *Louisiana Register*.” Therefore, due to the text of the Emergency Rule being identical to the Notice of Intent, the text of the Notice of Intent is printed only once, on pages 39-41 of the January 2017, *Louisiana Register*, Vol. 43, No. 01. A copy of the promulgated Notice of Intent, as published in the “Emergency Rules” Section of the *Louisiana Register*, is attached hereto and labeled as Exhibit “B”.

As authorized by La. R.S. 40:1846 (A)-(C), the Notice of Intent proposes amendments to Sections 107, in LAC 55:IX.Chapter1. The proposed rule change to Section 107(A)(1) amends the provision and renders applicants for all permits to the Commission to pay \$150 fee per permit, with the exception of the new Class III, which permit fee will be \$500, pursuant to Section 107(A)(6). Furthermore, the proposed amendments to Rule 113 establishes the criteria per the Class III permits and the proposed amendments to Rule 159 establishes the required “Location Approval Form”.

The Commission reports that no public hearing has been or will be held as to the proposed amended regulations concerning the amendments to LAC 55: IX:107. The deadline to submit comments or request a public hearing for the proposed rule was February 10, 2017. Pursuant to R.S. 49:953(A)(2)(a), there were no comments submitted nor was there a request for a public hearing.

Please advise if you have any questions or concerns or if you intend to conduct a hearing on this matter. Subject to legislative oversight by either the House Judiciary Committee or the Senate Judiciary B Committee, the Commission intends to submit a Rule to the Office of the State Register for publication next month.

Thank you for your attention to this matter. With best regards, I remain



MELINDA L. LONG, *Attorney*
LP Gas Commission

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1. the effect on household income, assets, and social 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; or

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impacted by this proposed Rule has been considered. It is anticipated that this proposed rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. Mr. Thomas is responsible for responding to inquiries regarding this proposed Rule. The deadline for all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for February 24, 2017 at 9:30 a.m., in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Individual and Family Support Program

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

The proposed rule change intends to codify both the existing policy and practice for implementation of the Individual and Family Support (IFS) Program. The proposed rule amends the Louisiana Administrative Code Title 48, Part IX, Developmental Disabilities Services, to add Chapter 11: Individual and Family Support Program.

The IFS Program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, including both entitlements and those occurring naturally in the individual's family and community. The proposed rule clarifies existing practice to establish in rule the definitions, records and processes, such as eligibility, individual planning, program monitoring and oversight, funding prioritization and allocation, expenditures, and payment mechanisms, to ensure proper utilization of program funds and service delivery. There is no anticipated programmatic or fiscal impact to the Louisiana Department of Health or the Local Governing Entities other than the cost of \$5,112 from the State General Fund for both the

proposed rule and the final rule. These costs are routinely included in OCDD's annual operating budget.

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 for FY 2016-17.

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

It is anticipated that implementation of this proposed rule will have no economic cost or benefits to directly affected persons or non-governmental groups for FY 2016-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.

Mark A. Thomas
Assistant Secretary
1701#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Correction
Liquefied Petroleum Gas Commission**

**Broker Permits and General Requirements
(LAC 55:IX, Chapter 1)**

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 49:953(B), of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 55:1, Chapter 1 as authorized by R.S. 40:1846.

In particular, notice is given to amend LAC 55:IX.107 to require a permit for third party brokers who are instrumental in the sale and service of liquefied petroleum. In addition, filing fees for all applications will be \$150.

The text of this proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

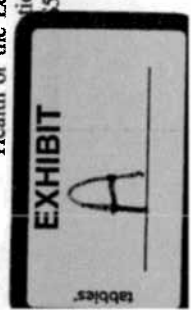
The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the LA R.S. 49:973. The agency has considered economic welfare factors



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 poverty.

Small Business Analysis

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. 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

In compliance with House Concurrent Resolution (HCR 107) of the 2014 Regular Session of the Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on providers. However, the particular proposed Rule does not impact or affect the staffing level requirements required to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than February 10, 2017, at 4:30 p.m. to Melinda L. Long, Office of Legal Affairs, 7979 Independence Blvd., Baton Rouge, LA 70806. A public hearing will be scheduled if the requisite number of comments are received by the deadline date.

John W. Alario
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Broker Permits and General Requirements

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

The proposed rule changes will result in a one-time marginal increase in administrative costs for the Liquefied Petroleum Gas Commission associated with generating and processing forms associated with Class III permit location approval forms. The associated costs and workload will be marginal and absorbed using the agency's current personnel and budget authority. The proposed rule changes reflect policies adopted by the Commission to permit third-party brokers of liquefied petroleum gas.

The proposed amendments to Rule 107(A)(1) alter the provision requiring applicants to pay an application filing fee of \$100 per Class I and IV permit, \$50 per Class VI permit, and \$25 for all other permit classes, and sets a flat \$150 filing fee for all permit classes. The proposed changes to Rule 107(A)(6) amend the permit fee schedule to include the permit fee for the new Class III permit, which shall be \$500. The proposed amendments to Rule 113 implements the criteria for the Class III permits. The proposed amendments to Rule 159 establish the "Location Approval Form" for the Class III permits.

The proposed rule changes will not result in any costs for local governmental units, nor will it result in any savings to state or local governmental units.

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

The proposed rule change will increase revenue collections for the LP Gas Commission by an indeterminable amount. Present rule states that there is a one-time application filing fee of \$100 per Class I and IV permit, \$50 per Class VI permit, and \$25 per permit for all other permit classes. The proposed amendment states that the associated filing fee for all applicants, including the new Class III, will be \$150. The proposed rule also states that a Class III permit fee is \$500. Furthermore, any revenues generated by the proposed rule change will be offset by an indeterminable amount as a result of different permittees previously paying different filing fees. The revenue offset is indeterminable using historical data, because the number of applications for each different permit type vary from year to year.

The LP Gas Commission anticipates 55-57 total permit applications in FY 17 based upon historical totals. As a result, the new \$150 application filing fee may generate a total increase of approximately \$8,250-\$8,550 in gross revenues. However, any increased revenues would be offset by an indeterminable amount, as different permit classes previously paid different filing fees ranging from \$25 - \$100. For informational purposes, the three-year average of revenues derived from LP gas application filings from FY 14 - 16 totaled approximately \$9,800.

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

The proposed rule change will affect new third party brokers of liquefied petroleum gas and dealers that have to apply for a permit. Previously dealers paid a filing fee of \$25-\$100. The proposed change to Rule 107(A)(6) states that all applicants will now pay \$150. Dealers of LP gas will realize a cost increase related to permit filing fees ranging from \$50 - \$125 as a result of the new \$150 fee for all permits. Furthermore, the proposed rule change establishes the \$500 fee for Class III permits, which LP gas dealers hoping to receive Class III status must pay. There is currently one LP gas dealer waiting to register as a Class III dealer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule increases the cost of business for liquefied petroleum gas dealers statewide by increasing the permit filing fee to \$150 from a previous range of \$25-\$100. Some dealers may be adversely affected by the higher filing fee, though the effect of the higher fee will likely be marginal and not affect aggregate business activity statewide. The proposed rule will not affect employment.

Jason S. Starnes
Interim Undersecretary
1701#075

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction Uniform Construction Code Council

Uniform Construction Code
(LAC 17:1.Chapter 1)

In accordance with the provisions of R.S. 40:1730.26 and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules and in accordance with R.S. 49:953(B), the Administrative Procedure Act, the

- F. Actions not subject to administrative review include:
1. the validity or appropriateness of the Louisiana vendor limiting criteria, if any;
 2. the validity or appropriateness of Louisiana's vendor selection criteria for the minimum variety and quantity of supplemental foods, business integrity, current SNAP disqualification, or civil money penalty for hardship;
 3. the validity or appropriateness of the Louisiana selection criteria for a competitive price including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;
 4. the validity or appropriateness of the state agency's participant access criteria and the state agency's participant access determinations;
 5. the state agency's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list of businesses from which an authorized vendor may purchase infant formula pursuant to selection criteria;
 6. the validity or appropriateness of the state agency's prohibition of incentive items and the state agency's denial of an above-50-percent vendor's request to provide an incentive item to customers;
 7. the state agency's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;
 8. the state agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;
 9. denial of authorization if the state agency's vendor authorization is subject to the procurement procedures applicable to the state agency;
 10. the expiration of a vendor's agreement;
 11. disputes regarding food instrument or cash-value voucher payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error); and
 12. disqualification of a vendor as a result of disqualification from SNAP.
- G. A vendor that is permitted to continue program operations while its appeal is in process does not relieve such vendor from the responsibility of continued compliance with the terms of any written agreement with the Louisiana WIC program. Administrative review decisions of the Division of Administrative Law are the final action of the Louisiana WIC program. If the review decision upholds the adverse action against the vendor, the vendor may be able to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43: §4513. **Availability of Documents**

A. The vendor application, the vendor agreement, and the shall be provided for review to any submission of an e-mail request to DOV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

Request for Comments

Interested persons may submit written comments to Bruce Boyea, Director, Bureau of Nutrition Services, Office of Public Health, 1450 Poydras Street, Suite 1906, New Orleans, LA 70112, or faxed to (504) 568-8232. He is responsible for responding to inquiries regarding this Emergency Rule.

1701#020

Rebekah E. Gee, MD, MPH
Secretary

DECLARATION OF EMERGENCY
Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

Broker Permits and General Requirements
(LAC 55:IX:Chapter 1)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, has exercised the emergency provision in accordance with R.S. 49:953(B), of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 55:IX:Chapter 1 as authorized by R.S. 40:1846. Furthermore, the Liquefied Petroleum Gas Commission has found an immediate need to adopt amendments to create a new class of permits applicable to brokers and special vendors of liquefied petroleum gas within the State of Louisiana. In particular, the Emergency Rule amends LAC 55:IX:Chapter 1, Section 107 to require a permit for third party brokers who are instrumental in the sale and service of liquefied petroleum. The adoption of this Rule on an emergency basis is necessary due to the hazardous components of liquefied petroleum gas, also referred to as propane or butane, which are flammable mixtures of hydrocarbon gases used as fuel in heating appliances, cooking equipment, and vehicles. The Liquefied Petroleum Gas Commission finds that an imminent peril to the public health, safety and welfare requires adoption of this Rule. This Emergency Rule was adopted and became effective January 20, 2017 and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

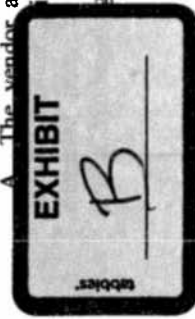
Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A. Before any permit or registration may be issued from the office of the director, all applicants shall have complied with or agree to comply with the applicable requirements as follows:

1. Shall deposit filing fee of \$150 for classes and \$25 for all registrations. This fee shall accompany application.



2. -5.b. ...

c. Each location of Class I, Class VI and Class VIII dealers, which fill DOT specification cylinders of 200 lbs. or less, liquefied petroleum gas capacity, that are in commerce or transportation, shall provide a suitable weighing device (scales).

6. Applicants shall have paid a permit fee in the amount of \$150, except for Class VII-E, which shall be \$100, and Class III which shall be \$500 and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$150 for each location. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$150 for each location. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$150, except registrations shall be \$37.50 per year.

6.a. - 7. ...

8. All service and installation personnel, fuel transfer personnel, carburetion mechanics and tank truck drivers shall have a card of competency from the office of the director. All permit holders, except Class III and VI-X permit holders, shall have at least one card of competency issued to their permit. The commission may waive the one card of competency until the dealer commences operations in the state. A card of competency shall be issued to an applicant upon receipt of a \$20 examination fee and successfully passing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This shall be evidenced by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees shall be paid prior to issuing the card.

a. - c.i.(d). ...

(e). Proof of a passing grade, for purposes of certification, shall be maintained in dealer employee file. The employer shall maintain this record until 1 year after the employment has terminated.

8.c.i.(f). -15 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:1671 (October 2016), LR 43:

§113. Classes of Permits and Registrations

A. - A.2.e. ...

3. Class III. Brokers/Special Vendors. Holders of these permits may purchase liquefied petroleum gas only from liquefied petroleum gas dealers who hold a valid liquefied petroleum gas permit and resell the aforementioned

purchased liquefied petroleum gas product to end users utilizing floor maintenance machines/or industrial trucks (forklifts) on their premises. Holders of these permits shall not deliver gas or engage in repairing liquefied petroleum gas containers or systems.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. Shall submit a completed "Location Approval Form" for each physical location being served, with a handling fee of \$150 for each location being served.

c. Compliance with all other rules and regulations is a mandatory requirement.

d. Shall provide 24 hour emergency contact information at each liquefied petroleum gas storage location. The person deemed the emergency contact shall have basic knowledge regarding liquefied petroleum gas emergencies and shall maintain contact information per the servicing liquefied petroleum gas supplier.

e. The Class III permit holder shall post the servicing liquefied petroleum gas supplier's name (name on Louisiana liquefied petroleum gas permit) at each liquefied petroleum gas storage site and each end user's location.

4 - 13.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:701 (July 1995), LR 24:461 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:1141 (June 2007), effective July 1, 2007, LR 38:1259 (May 2012), LR 41:395 (February 2015), LR 43:

Subchapter D. Forms and Reports

§159. Required Forms and Reports

A. - A.7. ...

8. Location approval forms shall be in accordance with §113.A.3.b.

Location Approval Form

The submission of this form by a Class III dealer representative does not absolve the dealer of following the rules and regulations established by this Commission concerning the storage of liquefied petroleum gas. Due to the fact that all requisite details are not submitted regarding the storage locations referred to on this form, it is, therefore assumed when approval is made on the information submitted, details regarding information not provided will comply with all regulations. Any changes to the cylinder location will require a new form to be submitted.

Name of Class III dealer submitting this form: _____

Name of Dealer supplying gas: _____

Is storage location protected from vehicular impact? ___ Yes ___ No

Is storage location: ___ inside building or ___ outside building?

Is storage location the proper distance from electrical equipment, ignition sources, doors and windows? ___ Yes ___ No

Is Name of Class III Dealer, Supplier and 24 hour Emergency Contact on storage location? ____ Yes ____ No
Is all the proper signage displayed at storage location? ____ Yes ____ No
Does the public have access to the cylinder storage location? ____ Yes ____ No
If yes, please ensure sketch is submitted by properly permitted dealer.

Contact information for someone at cylinder location:

Name _____
Telephone Number _____
Please give brief description of storage area including distances to permanent reference points: _____

All information submitted on this form has been verified as correct, and it is understood that any changes to this form shall require a new form to be submitted.

Signed (person in charge of insuring correctness of this form)
X _____
Date: _____

FEE \$150.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), LR 15:861 (October 1989), LR 24:466 (March 1998), LR 38:1265 (May 2012), LR 41:395 (February 2015), LR 43:

John W. Alario
Executive Director

1701#074

DECLARATION OF EMERGENCY
Department of the Treasury
Deferred Compensation Commission

Administration and Distributions
(LAC 32:VII.105, 701, and 709)

The Louisiana Deferred Compensation Commission has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority set forth in R.S. 42:1303, to amend LAC 32:VII.105, 701, and 709 regarding distributions for unforeseen emergencies. This Emergency Rule is necessary to allow plan participants (as defined by LAC 32:VII.101) who qualify for the relief provided by IRS Announcement 2016-30, or an extension thereof, to take a distribution from the Plan. This Emergency Rule was adopted to extend the provisions of the September 1, 2016, Emergency Rule concerning Administration and Distributions.

The Louisiana Deferred Compensation Commission hereby finds that the following circumstances constitute an immediate danger to the public health, safety, or welfare: On

August 12, 2016, pursuant to Proclamation No. 111 JBE 2016, Governor John Bel Edwards declared a State of Emergency within the State of Louisiana in response to historic flooding in Louisiana. Additionally, on August 14, 2016, the President of the United States of America issued a Major Disaster Declaration for designated parishes of Louisiana by issuing FEMA DR-4277. Over 100,000 Louisiana residents have applied to the Federal Emergency Management Agency for assistance. The Office of the Governor estimates over 60,000 houses were damaged by this historic flooding event. The damage caused by this historic flooding event has resulted in the closing of businesses in affected areas, loss of personal belongings, and loss of employment by many plan participants and/or their families. This historic flooding has produced an immediate threat to the public health, safety, and welfare of many participants in the Louisiana Deferred Compensation Plan. In order to provide relief to taxpayers who have been adversely affected by the storms and flooding that began August 11, 2016, the IRS issued Announcement 2016-30 to provide relief from certain verification procedures that may be required under retirement plans with respect to hardship distributions until January 17, 2017.

This Emergency Rule was adopted on December 13, 2016 and shall be effective on December 13, 2016. This Emergency Rule shall remain effective for the maximum period allowed under the Act or until the expiration of the relief provided in IRS 2016-30 or any extension thereof, whichever occurs first, unless renewed by the Louisiana Deferred Compensation Commission, or until permanent rules are promulgated in accordance with the law.

Title 32

EMPLOYEE BENEFITS

Part VII. Public Employee Deferred Compensation

Subpart I. Deferred Compensation Plan

Chapter I. Administration

§105. Duties of Commission

A - A.7. ...

8. appointing an emergency committee comprised of at least three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee:

a. a participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency. However, if a participant qualifies for a distribution arising from the Louisiana Storms, as set forth in IRS Announcement 2016-30, or any extension thereof, the commission may rely upon the representations from the participant as to the need for and amount of the distribution unless it has actual knowledge to the contrary.

b. if an application for a withdrawal based on unforeseeable emergency is approved, and the application does not qualify for the relief set forth in IRS Announcement 2016-30 or any extension thereof, the amount of the withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

i. - iii. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.