

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. _____ Department or Agency Alabama Liquefied Petroleum Gas Board
Rule No. 530-X-2-.12
Rule Title: CHECKLIST FOR SUBMITTING CLASS-A PERMIT APPLICATIONS
_____ New X Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

YES

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

YES

Is there another, less restrictive method of regulation available that could adequately protect the public?

NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

YES

Does the proposed rule have an economic impact?

NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 412223, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Mark Nelson

Date August 05, 2011

(DATE FILED)
(STAMP)

ALABAMA LIQUEFIED PETROLEUM GAS BOARD

NOTICE OF INTENDED ACTION

RULE NO. & TITLE:

530-X-2-.12 CHECKLIST FOR SUBMITTING CLASS-A PERMIT APPLICATIONS

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

530-X-2-.12(2)(a) To remove the mandate that fuel truck drivers and service personnel must appear before the Board when the Class A permit application is considered. The remainder of the regulation will still allow for the appearance of said individuals should the Administrator or Board members deem it necessary.

530-X-2-.12(2)(d)(1 & 2) To ensure that applicants are financially sound in order to provide proper resources, qualified employees, and no lapse in the supply of product during the cold weather season, all of which, have a direct impact on consumer safety. The current financial responsibility requirement of \$150,000 was adopted in 1968. Using the Consumer Price Index, \$150,000 in 1968 would equate to more than \$900,000 in 2010.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held October 13, 2011 at 10:00a.m., in the second-floor conference room located at the offices of the Alabama Liquefied Petroleum Gas Board, 777 S. Lawrence St., Montgomery, AL. Copies of the proposed rule(s) can be obtained at www.lpgb.alabama.gov.

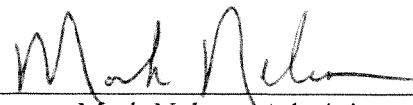
All interested parties may present their views in writing or orally to the Administrator of the Alabama Liquefied Petroleum Gas Board, P.O. Box 1742, Montgomery, AL 36102-1742 or via email to mark.nelson@lpgb.alabama.gov at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION NOTICE:

October 13, 2011

CONTACT PERSON AT AGENCY:

Mark Nelson, Administrator
777 S. Lawrence Street, Suite 100
Montgomery, Alabama 36104
Telephone: (334) 242-5649
Email: mark.nelson@lpgb.alabama.gov
Fax: (334) 240-3255



Mark Nelson, Administrator
Alabama Liquefied Petroleum Gas Board

530-X-2-.12 CHECKLIST FOR SUBMITTING CLASS-A PERMIT APPLICATIONS

(1) No applicant(s) should purchase any equipment or begin construction on any facilities until his application has been approved by the Alabama LP-Gas Board and he has been so advised in writing by the Administrator.

(a) All application forms shall be obtained from the Administrator by the prospective applicant(s) or his designated representative in person at the Board office in Montgomery.

(b) All applications shall be filled out completely, including the required attachments, and shall not be considered by the Board until such time as the Administrator deems that the application and attachments are completed.

(c) Applications shall not be considered until recorded as received in the Board office in Montgomery at least THIRTY (30) days prior to the Board's regular meeting. As THIRTY (30) days is the minimum time required to investigate the application and attachments, no waiver of the time limits shall be considered. This requirement does not apply to purchases of LP-Gas business where the business was previously approved and has a current permit by the LP-Gas Board.

(d) When incorporated, submit a correct copy of the company's Articles of Incorporation.

(e) Submit evidence of adequate supply of LP-Gas in the form of a contract or a letter of intent issued by a supplier who is authorized to do business in this state signed by an officer or person authorized to make such contracts or letters to be effective for a period of TWELVE (12) months from the date of issuance of the permit.

(f) Submit audited financial statement.

(g) Submit payment of initial permit application fee(s) in the amount of THREE (\$300) HUNDRED DOLLARS.

(h) Submit within FIFTEEN (15) DAYS of the application hearing date all new driver's motor vehicle record (MVR) for all company personnel who are required to have a commercial driver's license. The new driver's MVR must be dated no more than THIRTY (30) DAYS before the hearing date and shall be obtained from the drivers license agency in the state in which the commercial driver's license is issued.

(i) New applicant(s), and all other persons required to appear before the Board shall be given at least SEVEN (7) DAYS notice in writing by the Administrator.

(2) All applicant(s) for LP-Gas Dealer Class A Permits shall comply with the following:

(a) New applicant(s), ~~their fuel truck driver(s), and service personnel~~ shall appear before the Board at such time as their application is considered. Persons other than the person(s) whose signature appears on the application may be required to appear before the Board in consideration of the application.

(b) Any person may testify at Board hearings on pending applications. Persons desiring to testify should notify the Board Administrator in writing at least TWENTY-FOUR (24) HOURS prior to the Board meeting in which the application is to be heard.

(c) New applicant(s), as well as other persons required to appear before the Board, shall be expected to explain and support their application and experience in any manner which members of the Board deem relevant to carry out their responsibility for the health and safety of the public.

(d) New applicant(s) shall submit a personal audited financial statement completed in accordance with generally accepted accounting practices or the purchasing company may submit the company's last published certified annual report or an audited financial statement.

(1) Audited financial statements shall be prepared by and attested to by a certified or registered public accountant and shall be dated within FORTY-FIVE (45) DAYS of the filing of the application for a new business or in the case of a purchase of an existing LP-Gas business. ~~the Administrator shall poll a minimum of three (3) industrial members of the board in order to determine the type of audited financial statement or annual report that may be required.~~

(2) The new applicant(s) shall provide evidence of financial responsibility to the Board in the amount of cash or cash equivalent of at least ~~ONE HUNDRED FIFTY THOUSAND (\$150,000)~~ SEVEN HUNDRED FIFTY THOUSAND (\$750,000) DOLLARS. When the purchase of an existing business occurs, ~~the Administrator shall poll a minimum of three (3) industrial members of the board in order to~~ will determine if equity in the assets of the company to be purchased can be used as all or part of meeting the cash or the cash equivalent required by this paragraph.

(3) The evidence of financial responsibility shall be submitted in the form of an irrevocable letter of credit from a bonafide lending institution, cash, or cash equivalent.

(e) Application, attachments, and Board hearings shall attempt to resolve the question of the applicant's qualifications to enter the retail LP-gas business. Factors to be considered are as follows:

(1) The applicant's experience in and knowledge of the LP-gas industry.

(2) The applicant's knowledge, technical ability, and adherence to safety standards adopted by the LP-Gas Board.

(3) The applicant's proposed facilities and equipment.

(4) Other factors the Board may deem important and relevant in qualifying persons as LP-gas dealers.

(f) All decisions of the Board are rendered in an open meeting. The Administrator will then notify the applicant(s) of the Board's decision by certified mail, return receipt requested, within a period of SEVEN (7) DAYS.

(3) Following approval of application the applicant shall comply with the following:

(a) A new applicant(s) shall have a period of ONE HUNDRED EIGHTY (180) days in which to comply with the requirements of the application for a permit and to be actively engaged in the retail LP-gas business. Otherwise, the approval of the application will become null and void and the applicant(s) will forfeit the THREE HUNDRED (\$300) DOLLARS initial permit fee.

(b) Submit plans and install the minimum storage of THIRTY THOUSAND (30,000) water gallon capacity (WGC) and secure the Administrator's approval of the bulk storage facilities and other operational equipment.

(c) Execute and file with the Board a surety in cash in the amount of ONE HUNDRED (\$100) DOLLARS and submit evidence of insurance on the forms provided by the Board.

(d) New applicant(s) must have a designated serviceman who will be required to pass an initial oral or written examination to the Board's satisfaction. New applicant(s) also must have a designated fuel truck driver who will be required to pass an oral or written operator's examination to the Board's satisfaction. These examinations will be given under the direction of the Administrator at a designated time and place in the presence of a Board inspector.

(e) The Administrator shall not issue any permit until he is satisfied that all requirements in the location and in type of facilities, equipment, bond, and insurance coverage and personnel qualifications have been fully met.

(f) The Administrator shall furnish a copy of this checklist to each applicant(s).

(4) Class A permit holder(s) purchasing LP-Gas business(es) in Alabama:

(a) Owners of an LP-Gas business that have a current Class A permit shall meet the applicable requirements listed in sections 1, 2, and 3 of this regulation.

(1) The new owner shall notify the Administrator of the Liquefied Petroleum Gas Board within TEN (10) WORK DAYS of the acquisition of the business.

(2) If a new permit is required, the new owner will be given SIXTY (60) DAYS from the date of purchase of the business to meet the applicable requirements. A properly completed application for a Class A permit, insurance certificate, surety in cash in the amount of ONE HUNDRED (\$100) DOLLARS, applicable permit fees and a letter of intent from an authorized supplier shall be filed and remitted to the board administrator within TEN (10) WORK DAYS of the purchase date or before operation of the LP-Gas business.

(3) When the new permit is required and all of the requirements have been met, the Administrator may issue a temporary authorization to operate the business. The board will consider the permit at its next regular board meeting. Failure of the new owner to complete all of the required items to obtain a new permit within the SIXTY (60) DAY period may cause the new owner to cease and desist all operations of the business.

(5) Non-Permit holder(s) purchasing LP-Gas business(s) in Alabama:

Non-permit holders shall comply with Section 1, 2, and 3 of this regulation before the non-permit holder(s) begins operation of the business.

(6) Procedures for applicant(s) who have had their applications denied:

(a) Applicant(s) whose application has been denied may resubmit a new application in accordance with procedures outlined in this checklist. The application will be heard as a new application at the next regularly scheduled Board meeting after filing.

(b) In case of an extreme emergency the applicant(s) may submit in writing to the Administrator a request for a special meeting of the Board. Special meetings to reconsider an application shall only be called with the approval of the Board Chairman. If the request is granted, the applicant(s) must bear all expenses of the special meeting in which their application is to be reconsidered and shall make a deposit with the Administrator in the amount of SIX HUNDRED (\$600) DOLLARS by certified check which must be received in the Board office SEVEN (7) DAYS prior to the meeting date. If the Administrator determines that there is a balance due for the meeting expenses the balance due shall be payable prior to the meeting being called to order by the chairman. If there is an overpayment of meeting expenses, the Administrator will initiate a refund in accordance with State procedures.

If any part of this regulation is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

A COPY OF THIS CHECK LIST WILL BE FURNISHED TO THE APPLICANT WHEN THE APPLICATION IS PICKED UP.

Author: Leonard Pakruda

Author: Alabama LPGB Rules & Regulation Committee 2011

Statutory Authority: Code of Alabama, 1975 §9-17-103

History: Amended ___/___/_____

Effective Date: ___/___/_____