



ARKANSAS

ENERGY & ENVIRONMENT

Proposed rule amendment for the LIQUEFIED PETROLEUM GAS BOARD: STATE CODE LIQUEFIED PETROLEUM GAS BOARD CONTAINERS AND EQUIPMENT

April, 2024

PURPOSE AND AUTHORITY

The Department of Energy and Environment, Liquefied Petroleum Gas Board (“LP Gas Board” or “Board”) proposes this rulemaking to promulgate a rule amendment to State Code Liquefied Petroleum Gas Board Containers and Equipment. The Board is vested with authority for this rulemaking in Ark. Code Ann. § 15-75-207(a) and (b).

BACKGROUND

The Liquefied Petroleum Gas Board has long-established safety requirements for the storage and transportation of LP gas. Part of these safety requirements is to establish distance requirements, or safe distances, between storage containers and other types of objects such as houses, important buildings, air conditioner units, and other storage containers. These distance requirements have been in place since 1965 and have not been updated to consider modern improvements in the storage and transport of LP gas.

Also, much of the liquefied petroleum gas sold in Arkansas is sold to consumers who lease the container from the gas provider. In such cases, the consumer does not have the right or ability under Arkansas law to fill the tank with LP gas from another seller of gas. See Ark. Code Ann. § 15-75-406(a)(1). If the consumer chooses to change providers of LP gas, the consumer must also contract with the new provider to lease a new container. In these circumstances, the only entity that has authority to move an unused or old container is the owner, who formerly held the lease with the consumer. Ark. Code Ann § 15-75-406(a) and (b).

Because of the value of the container, most permit holders will recover their vessels very quickly after they are notified by the consumer that they are not renewing the lease agreement. However, there is a recent trend where permit holders are not recovering their containers, or are not recovering the containers on a timely basis. These permit holders do not always have offices in Arkansas. There have been many instances recently where even though the consumer has requested the permit holder to retrieve the container, it still is not removed over one year after the notice. Propane tanks that have been disconnected from service and set aside on the consumer's property can be considered a safety risk. There can be an accidental release of propane caused by children playing, lawn equipment coming in contact with the container, a vehicle coming in contact with the container, or many other reasons.

THE PROPOSED RULE

The proposed rule amendment updates the distance requirements in the rules. Specifically, the LP Gas Board is proposing that the rules be updated to the distance standards established by the

National Fire Protection Association (NFPA) in its 2020 edition of Pamphlet 58. These standards have been adopted by the vast majority of states, and would establish distance requirements that are consistent with the states neighboring to Arkansas. The new distance standards take into consideration improvements made in LP gas equipment, as well as building and wiring improvements to buildings. The proposed rule amendments ensure that Arkansas rules are consistent with national standards.

Also, the proposed new rule, Rule 19 “Installation and Painting of Containers,” Subsection HH, will allow the LP Gas Board to help facilitate lessors or owners of unused gas containers to act promptly to retrieve their containers. The rule will allow the Board to provide notice to the permit holder that it must retrieve its container within thirty (30) days. If the container owner fails to retrieve the tank within the thirty (30) day period, the rule will allow the Board to fine the owner fifty dollars (\$50.00) per day for every day beyond the thirty day period that the container remains on the consumer’s property. The rule also allows the Board to seek injunctive relief to remove the container if it remains after the initial thirty (30) day period.

NECESSITY AND PRACTICAL IMPACT OF RULE AMENDMENTS

The current distance requirements in the LP Gas Code have been in place since 1965 and are outdated. Arkansas distance requirements are not consistent with national standards. The rule amendments are necessary to adopt national distance standards and to modernize the rules to reflect current technology. The rule amendments will make Arkansas distance requirements consistent with neighboring states. The rule amendments are necessary to allow for modern technology to be implemented in the storage of LP gas and the placement of storage containers. Much of the industry supports these national standards, and already is implementing them where not inconsistent with current Arkansas rules.

The new rule, Rule 19 “Installation and Painting of Containers,” Subsection HH, will allow the LP Gas Board to protect the public from hazards associated with old or unused gas containers. The rule will allow the Board to encourage the owner of the container to promptly retrieve the container once its lease has expired or been terminated. The Board will have the ability to give notice to the LP gas provider to pick up the container and to enforce the directive with fines and injunctive relief, if necessary. These enforcement powers, which are lacking under the current law, will eliminate the hazard of unused containers being left or abandoned for excessively long periods of time. The rule is necessary to protect consumers from indolent lessors who are dilatory in retrieving unused containers.

RECOMMENDATION

The Liquefied Petroleum Gas Board recommends that the proposed amendment of the State Code Liquefied Petroleum Gas Board Containers and Equipment be approved.