



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Senators PATRICK, Agenbroad, Ward-Engelking and,
Representatives DIXON, DeMordaunt, Smith

FROM: Katharine Gerrity - Deputy Division Manager

DATE: April 22, 2020

SUBJECT: Temporary Rule

IDAPA 24.22.01 - Notice of Omnibus Rulemaking (Fee Rule) - Adoption of Temporary Rule - Docket
No. 24-2201-2000F

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

DOCKET NO. 24-2201-2000F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rules being adopted through this omnibus rulemaking is the adjournment date of the second regular session of the 65th Idaho State Legislature - March 20, 2020.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 54-5310, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rulemaking adopts the following chapter under IDAPA 24.22.01:

IDAPA 24.22

- 24.22.01, *Rules of the Idaho State Liquefied Petroleum Gas Safety Board.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These temporary rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the qualifications for facilities and individuals who engage in the selling, filling, refilling, transporting, delivering, or commercial handling of liquefied petroleum gas (LPG), or engage in the installation or maintenance of systems, equipment, pipes or containers for the use or storage of LPG. Allowing these rules and the standards set forth within them to expire would endanger public health, safety, and welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fees or charges being imposed or increased are justified and necessary to avoid immediate danger and the fees are described herein:

The fees or charges, authorized in Sections 54-5313, and 54-5308 Idaho Code, are part of the agency’s 2021 budget that relies upon the existence of these fees or charges to meet the state’s obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho’s constitutional requirement that it balance its budget.

The following is a specific description of the fees or charges:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$30	
Individual License	\$75	\$75
Endorsement	\$75	
Dealer-in-training	\$50	
Facility License	\$100	\$100
Bulk Storage Facility	\$400	\$400

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Facility Re-inspection	\$125	

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Rob McQuade at (208) 334-3233.

DATED this February 21, 2020.

Kelley Packer
Division Administrator
Division of Occupational and Professional Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

000. LEGAL AUTHORITY.

In accordance with Section 54-5310, Idaho Code, the Idaho State Liquefied Petroleum Gas Safety Board has promulgated rules that implement the provisions of Chapter 53, Title 54, Idaho Code. (3-20-20)T

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.22.01, “Rules of the Idaho State Liquefied Petroleum Gas Safety Board.”(3-20-20)T

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The document titled Liquefied Petroleum Gas Code, 2017 Edition, commonly known as NFPA 58, published by National Fire Protection Association (NFPA), is herein incorporated by reference and is available for public inspection at the Board’s office. Copies of the 2017 Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. (3-20-20)T

005. -- 099. (RESERVED)

100. ORGANIZATION.

At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (3-20-20)T

101. -- 174. (RESERVED)

175. FEES.

All fees are non-refundable:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$30	
Individual License	\$75	\$75
Endorsement	\$75	
Dealer-in-training	\$50	
Facility License	\$100	\$100
Bulk Storage Facility	\$400	\$400
Facility Reinspection	\$125	

(3-20-20)T

176. – 224. (RESERVED)

225. APPROVED EDUCATION AND EXAMINATIONS.

Each applicant must provide certified proof that they have successfully completed the following: (3-20-20)T

01. Basic Education. The Basic Certified Employee Training Program (CETP) provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. (3-20-20)T

02. Licensure Examination. Receipt of a passing grade on the Basic Certified Employee Training Program (CETP) examination provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. (3-20-20)T

226. -- 249. (RESERVED)

250. PRACTICAL EXPERIENCE.

01. Supervised Practical Experience. Each applicant must provide certified proof that the applicant

has successfully obtained at least one (1) year of practical experience in a Liquefied Petroleum Gas (LPG) facility while the applicant was under supervision of a licensed dealer. A person in the process of meeting the practical experience requirement must complete the education and examination requirements and apply for a dealer license within eighteen (18) months of beginning to obtain supervised experience. (3-20-20)T

02. Dealer-in-Training License. An individual may not begin obtaining supervised practical experience until the individual has applied for and obtained a dealer-in-training license from the board. Such license is issued on a non-renewable basis and is for the purpose of enabling the individual to gain the supervised practical experience that the person must obtain to become an LPG dealer. The dealer-in-training license is valid for eighteen (18) months from the date of issue. (3-20-20)T

251. -- 349. (RESERVED)

350. FACILITY LICENSURE.

01. Facility Licensure and Operation Requirements. (3-20-20)T

a. Application for a facility license must include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications must be submitted to the Board for approval and a license must be issued before a new facility may open for business; (3-20-20)T

b. Each facility application must clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas; (3-20-20)T

c. Each facility must meet all requirements of NFPA 58. (3-20-20)T

02. Facility Changes in Ownership or Location. (3-20-20)T

a. Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. FACILITY LICENSES ARE NOT TRANSFERABLE. (3-20-20)T

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. (3-20-20)T

c. Addition of an owner to multiple ownership does constitute a change in ownership. (3-20-20)T

d. Whenever any facility ceases operation at the licensed location, the owner(s) must notify the Board in writing that the facility is out of business and the facility license must be submitted to the Division. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. (3-20-20)T

351. -- 354. (RESERVED)

355. GENERAL LIABILITY INSURANCE REQUIREMENT.

No facility license will be issued without a certificate showing proof of a current general liability insurance policy in the sum of not less than one million dollars (\$1,000,000) for an occurrence. The Board may conduct random audits of facility licenses and request documentation of a current general liability insurance policy. (3-20-20)T

01. Original Facility License Application. An application for facility license will not be considered complete without a certificate of general liability insurance showing a current policy. The policy must be kept in full force and effect. (3-20-20)T

02. Renewal of Facility License. All licenses being renewed must certify that the facility holds a current general liability insurance policy. (3-20-20)T

356. -- 374. (RESERVED)

375. INSPECTION RULES.

All facilities are subject to inspection by the Board or its agents at any time without notice to insure the safe operation of each facility and to insure continued compliance with the requirements of NFPA 58 and the Idaho laws and rules. The Board may adopt a form which establishes for the facility those material rules of NFPA 58 which will be inspected, and a level of compliance necessary for issuance or retention of a license or disciplinary action. The Board may further determine the time frame a facility may be granted in order to comply with NFPA 58, but still continue to operate, or pursue disciplinary action for a failure to comply. In the event of non-compliance necessitating re-inspection, the Board may assess a re-inspection fee. (3-20-20)T

376. -- 399. (RESERVED)

400. ENDORSEMENT.

Any person who holds a current, unsuspended, unrevoked or otherwise nonsanctioned license in another state or country that has licensing requirements substantially equivalent to or higher than those in Idaho may, submit the required application, supporting documentation, and required fee, for Board consideration. Those applicants who received their professional education or experience outside of the United States must provide such additional information concerning their professional education or experience as the Board may request. The Board may, in its discretion, require successful completion of additional course work or examination for any applicant under this provision. (3-20-20)T

401. -- 449. (RESERVED)

450. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed LPG dealer or a licensed LPG facility for each violation of Section 54-5315, Idaho Code. (3-20-20)T

02. Costs and Fees. The Board may order a licensed LPG dealer or a licensed LPG facility to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-5315, Idaho Code. (3-20-20)T

451. -- 999. (RESERVED)