

COMMUNITY AFFAIRS

Division Of Codes And Standards

Liquefied Petroleum Gas Regulations

Consumer Rights

Proposed New Rules: N.J.A.C. 5:18-11.1 through 11.6; Appendix C

Authorized by: Joseph V. Doria, Jr., Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-511

Proposal Number: PRN 2008 –

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Submit written comments by August 14, 2008 to:

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COMMISSIONER

The agency proposal follows:

Summary

The proposed new rules, which would implement the “Propane Gas Customer Protection Act,” P.L. 2007, c.150, N.J.S.A. 52:27D-509 *et seq.*, would establish a framework for LP-Gas marketers to provide customers with information about the terms and conditions for the sale of propane gas to ensure that customers’ rights are protected. The proposed new rules would provide four main categories of information that would be required to be disclosed to propane gas customers, namely pricing, terms and conditions of contract or plan, change of marketer, and propane services. In addition, the proposed new rules would require that LP-Gas marketers provide propane gas customers with a Consumer Bill of Rights and Disclosure of Company Policies.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a) 5.

Social Impact

The proposed new rules would have a positive social impact by ensuring that propane gas customers are provided with information about LP-Gas marketers' company policies and procedures and about their rights as consumers.

Economic Impact

The Department does not expect that the proposed new rules would have any economic impact.

Federal Standards Statement

No Federal standards analysis is required because the new rules are not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate that any jobs would be created or lost as a result of the proposed new rules.

Agriculture Industry Impact

The Department does not anticipate that the proposed new rules would impact the agriculture industry.

Regulatory Flexibility Analysis

The proposed new rules would require that LP-Gas marketers provide customers with information about the terms and conditions for the sale of propane gas to ensure that their rights are protected. While most licensed LP-Gas marketers in the State would qualify as "small businesses" as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 *et seq.*, the proposed new rules must apply equally to all licensed LP-Gas marketers, since all propane customers are entitled to the same protection against abusive and unfair business practices, regardless of whether the LP-Gas marketer is a "small business" or not. Finally, the proposed new rules would not impose any recordkeeping or reporting requirements and would not require additional professional services.

Smart Growth Impact

The Department does not anticipate that the proposed new rules would have any impact upon either the achievement of "smart growth" or implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 11 – CUSTOMER INFORMATION

5:18-11.1 Required information

(a) Effective upon the operative date of this subchapter, propane gas marketers shall provide customers with information on the terms and conditions for the sale of propane in accordance with N.J.A.C. 5:18-11.2 – 11.6 below.

(b) Customers shall be provided with propane gas marketers' company license numbers.

(c) Customers shall be informed that they have the right to contact the Bureau of Code Services in the Department of Community Affairs. Customers may contact the Bureau between the hours of 8:30 a.m. and 4:30 p.m. by telephone at (609) 633-6385. Customers may also e-mail the Bureau at LPGas@dca.state.nj.us

5:18-11.2 Pricing

(a) Per gallon price quote: Propane gas marketers shall provide customers buying propane with a per gallon price quote. The price quote may be provided by telephone or facsimile.

1. Propane gas marketers may provide customers buying filled cylinders with a per cylinder price quote. The price quote may be provided by telephone or facsimile and shall include the following information:

- i. The cost of propane per cylinder and
- ii. The size of the cylinder.

(b) The per gallon price quote shall include the following information:

1. The minimum delivery amount, if any;
2. The cost of propane based on usage. Customers shall be informed that the cost of propane fluctuates based on the current market value of propane;
3. Whether deliveries are automatic or whether the customer must call for deliveries.

i. Customers shall be informed of how often automatic deliveries will be made and whether automatic deliveries will be made on weekends or holidays and the charges that apply.

4. Customers shall be informed as to whether they are obligated to inform marketers of changes in circumstances that might affect the rate at which the customers use propane.

5. The cost of propane for customer-requested (on demand) deliveries, including information on the surcharge(s) for propane that is below the minimum delivery amount;

6. Whether the quoted cost of propane is for scheduled deliveries only. In addition, customers shall be informed of the cost of propane for non-scheduled deliveries, including deliveries on nights, weekends, and holidays;

i. Customers shall be informed of propane gas marketers' normal business hours and shall be informed of the cost of propane for deliveries that are outside the normal business hours.

7. Whether the cost of propane varies based on customer location.

(c) Customers shall be informed as to whether payment is required at the time of delivery.

1. If payment is required based on billing, customers shall be provided with information on how fees are assessed for late payments. In addition, customers shall be provided with information on the propane marketer's policies for nonpayment of bills.

i. Customers shall be informed of their right to be notified at least seven business days prior to the discontinuation of propane deliveries due to nonpayment of bills.

5:18-11.3 Terms and conditions of contract or plan

(a) Customers who rent propane equipment/cylinders from propane gas marketers shall be informed of the installation and rental fees for the equipment/cylinders, if any.

(b) Customers shall be informed that they can use their own tanks. Customers who own their own tanks shall be informed that the propane marketer has the right to refuse to fill a propane tank if the marketer determines that the tank may be unsafe.

1. Customers who own their own tanks shall be informed as to whether there are fees for annual inspections of tanks and regulators due prior to the initial delivery of propane. In addition, customers shall be informed as to the costs for inspections annually thereafter.

5:18-11.4 Change of marketer

(a) Propane gas marketers shall provide customers with information on their right to change marketers and shall provide the following information:

1. The date by which service will be discontinued;
2. The date by which tank will be removed, if applicable;
3. The fees for the removal of the tank, if applicable; and
4. Any contractual limits on changing marketers.

5:18-11.5 Propane services

(a) Propane gas marketers shall provide customers with information on the fees associated with propane services, including information on whether the fees are calculated based on time and materials or as a flat rate based on the service work.

1. If the fees are calculated based on time and materials, propane gas marketers shall provide customers with a time estimate for the services.

5:18-11.6 Consumer Bill of Rights and disclosure of company policies

(a) Propane gas marketers shall provide customers with a Consumer Bill of Rights and Disclosure of Company Policies, which contains the information provided in Appendix C of these rules. If a marketer chooses to develop a Consumer Bill of Rights and Disclosure of Company Policies that differs from the one provided in Appendix C, the information required in 11.1 through 11.5 above shall be provided in the order set forth in Appendix C and shall be presented in a clear and concise manner.

i. Propane gas marketers shall submit the Consumer Bill of Rights and Disclosure of Company Policies to the Bureau of Code Services for review two weeks prior to the operative date of this subchapter.

ii. Revisions to Consumer Bill of Rights and Disclosure of Company Policies previously approved by the Bureau of Code Services shall be submitted to the Bureau for review prior to dissemination to customers.

Appendix C

**Consumer Bill of Rights
And Disclosure of Company Policies**

Date _____

Qualifications

Customers have the right to know that the firm delivering propane or providing propane service is qualified. Company X is licensed by the State of New Jersey to perform propane delivery and service. Our license number is *LPG-0XX*

Terms of Service

Customers have the right to know about any special conditions of service that would be applied to them by their supplier. Company X will provide service subject to the following conditions:

1. *Company X does / does not* require a credit application.
2. *Company X does / does not* reserve the right to require payment at the time of delivery (Cash On Delivery or COD) for customers who's credit is questionable. COD customers may pay by the following means:
_____ Cash _____ Certified Check _____ Personal Check _____ Credit Card
3. For other than COD deliveries *Company X* requires payment within _____ days of delivery. Late payments are subject to a late fee of _____. For propane service work, payment is subject to the conditions of the service contract.
4. *Company X* allows the following delivery methods:
_____ Automatic Delivery (We schedule your delivery. Deliveries are made on a schedule as follows: _____)
_____ Customer requested delivery (will call deliveries). The customer calls for deliveries. *Company X* must be notified _____ days before the desired delivery date. There is a minimum delivery amount of _____ gallons. Deliveries below the minimum are subject to a surcharge of _____ dollars. If a customer runs out of gas the system must be leak checked prior to resuming service. Consult your contract for additional details.

Pricing Structure

Customers have the right to a written or verbal price quote upon request. Company X bases its price of propane on the following factors:

- _____ Estimated annual usage (lower rates apply for larger users)
- _____ Time of year (lower rates apply for off season deliveries)
- _____ Delivery day/time (higher rates apply to weekend, holiday or deliveries made outside the hours of _____ am and _____ pm.)

- _____ Type of delivery selected (will call verses automatic)
- _____ Number of locations (lower rates for customers with multiple accounts)
- _____ Customer location (higher rates apply for locations that require additional travel time)
- _____ Other as described _____

Pricing Policy

Customers have the right to a price quote in a format that allows for comparison-shopping. Company X charges for propane based on _____, and will convert that pricing into dollars per gallon equivalent for comparison purposes. The price of propane like any commodity changes over time. This will affect your bill as the price fluctuates. *Company X* pricing policies will determine how often your bill is adjusted to account for changes in the cost of propane. We offer the following pricing options:

- _____ Budget pricing (payments for the year divided into a fixed monthly amount based on projected usage over a number of months. The last month of the year is used to pay the balance). The price is adjusted once a **month/year/other**.
- _____ fixed pricing (the price is locked in for a specified period of time)
- _____ Pipeline pricing (Pricing is based on an amount above the wholesale price for a specific pipeline. As the pipe at the pipeline changes, so will your price)

Equipment Fees

Customers have the right to either rent equipment from Company X or use their own equipment. Company X has the following equipment related fees:

- _____ Fee for the installation of tanks associated with a new service
- _____ Fee for the replacement of tanks associated with an existing service
- _____ Rental fee for tanks and regulators when using *Company X's* equipment
- _____ Fee for inspecting tanks and regulators when Customer owned equipment is used
The fee is applied
 - _____ Prior to initial delivery
 - _____ annually thereafter
 - _____ other as described _____
- _____ Fee for service work on *Company X's* equipment
- _____ Fee for service work on customers equipment
- _____ Fee for leak checking the customers system under the following conditions:
- _____ Other as described: _____

Note: Fees for service work are based on the specifics of the particular job to be done; therefore prices are based on an estimate on a case-by-case basis.

Change of Supplier

Customers have the right to change suppliers if they are dissatisfied with the price or service offered. Discontinuance of service is subject to the terms of your contract. The following conditions apply to a discontinuance of service:

- _____ *Company X* will remove our container within _____ days of written notification by the customer is discontinuing service.
- _____ *Company X* will notify you of the removal date and approximate time _____ days prior to removal.
- _____ *Company X* will charge for the removal of the container
- _____ *Company X* will credit the customer for any propane remaining in the container at the time of removal (you are permitted to be present when the remaining volume is removed)

Note: At one- or two-family residential properties the new marketer may disconnect and move containers owned by others; however the new marketer may not fill a container owned by another marketer. At other properties, the new marketer cannot remove, connect, disconnect, fill or refill any propane container without written permission from the owner of the container.

Disconnection

Customers have the right to be notified seven days prior to the disconnection of service for non-payment.

Complaints

The Liquefied Petroleum Gas Board regulates the licensing of marketers as well as enforcing safety regulations on LP-Gas systems. The LP-Gas Board does NOT regulate pricing. If you are dissatisfied with the price your marketer is charging, you have the right to change marketers in accordance with the terms of your contract with your current marketer.

1. Complaints or questions should first be brought to the attention of your marketer.
2. If you are not satisfied with your marketer's response and wish to pursue a complaint, contact the Department of Community Affairs at (609) 633 – 6385 or by e-mail at LPGas@dca.state.nj.us. Complaints by phone should be made Monday through Friday from 8:30 to 4:30.

Because rates and policies differ among marketers, first time customers or customers considering moving to a new marketer; should be informed enough to ask a few key questions.

Key Questions Consumers Should Ask When Changing Marketers

- Does the marketer have a current, valid license issued by the New Jersey Department of Community Affairs? The list of licensed marketers is available on the Department's website at www.state.nj.us/dca/codes/lp-gas/licensees.pdf or by calling (609) 633-6835.
- Is there a written description of services that will be provided?
- Is there a charge to install the container and/or related equipment necessary to establish service?
- What is the most economical method of purchasing propane?
- Do you have to call when you need gas or will they schedule your deliveries?
- How often will you receive a delivery? What days are delivery days? Are deliveries made on weekends?
- How much will it cost to receive a delivery outside of your normal schedule?
- Is the price based on your annual usage, the area you live in, the quantity per delivery or other criteria?
- How long after delivery do you have to pay your bill?
- Is there a penalty for a late payment?
- What is the marketer's policy if you need fuel in the winter, but you still have an outstanding bill?
- Does the marketer offer any of discounts that apply to you?
- Does the marketer have an equal payment plan?
- Does the marketer install and/or service LP-Gas appliances?
- Does the marketer have a website address?

Be sure to address any other concerns you may have that are not listed above.

Energy Assistance

The following agency has programs available to assist low-income households with their energy bills. For more information, please contact directly:

- Low-income Home Energy Assistance Program (LIHEAP) 1(800) 510-3102

Safety Recommendations

- When handled properly, LP-Gas is a safe and efficient fuel source.
- Ask your marketer what procedures they have in place to ensure safety and integrity of the system, which serves you. One such safety program is the GAS checks Program, a voluntary program developed by the National Propane Gas Association. Information on this program is available from your marketer or on the National Propane Gas Association website at www.npga.org or by calling (202) 466-7200.
- Follow all manufacturers instructions for the proper use and care of your LP-Gas appliances.
- NEVER attempt to repair or alter an LP-Gas appliance. Contact your marketer or a licensed service representative for assistance.

- Keep areas around LP-Gas appliances clean and clear of combustibles.
- You, as the customer, are required to maintain clear access to your LP-Gas container at all times.
- An odorant has been added to your LP-Gas so you can detect if your system develops a leak. Learn what LP-Gas smells like. Your marketer has scratch-and-sniff pamphlets to help your family recognize its distinctive odor.
- Learn how to turn off your gas supply. Some gas valves require the use of a wrench to operate them. Ask your marketer for assistance if you do not know how to turn off your gas supply.
- Check www.propanesafety.com, www.npga.org, the propane marketer's website or call you marketer for additional safety information.
- Ask your marketer whether all installations and services provided are in conformance with New Jersey Department of Community Affairs regulations.
- If you find an underground container dome or any other LP-Gas container completely submerged in water, turn off the container supply valve and notify your marketer.
- Keep underground container domes clear when it snows in case a delivery is needed.
- Notify your marketer prior to the installation of air conditioning or making any modifications to your home that is within ten feet of the container.

If You Smell Gas

1. Exit the building, without using the telephone or cell phone, operating any electrical switches or lighting any matches or smoking materials.
2. If possible, turn off the gas at the container or meter valve.
3. Call 911 from a neighbor's home.
4. Do not re-enter the building until the emergency responder tells you it is safe to do so.

Your marketer is required