

**19 Mississippi Administrative Code, Part 7, Chapter 12:
Rules of Practice and Procedures Before the State Liquefied Compressed Gas Board.**

Rule 12.01: Statutory Authority

This Regulation is promulgated by the Department of Insurance (hereinafter “Department”) on behalf of the Liquefied Compressed Gas Board (hereinafter “Board”) in accordance with the Mississippi Administrative Procedures Law.

Source: Miss. Code Ann. § 25-61-5 (Rev. 2011); § 75-57-105. (Rev. 2016)

Rule 12.02: Purposes

The purpose of this Regulation is to set forth the rules and regulations regarding the procedural requirements which the Commissioner of Insurance (hereinafter “Commissioner”) deems necessary to carry out the provisions of the Mississippi’s Liquefied Compressed Gas laws found in Miss. Code Ann. §§ 75-57-1 *et seq.*, and to provide the methods and procedures of the Board.

Source: Miss. Code Ann. § 25-61-5 (Rev. 2011); § 75-57-1, *et seq.* (Rev. 2016)

Rule 12.03: Applicability

This Regulation shall be of general applicability and shall apply in all cases except to the extent a statute of the State of Mississippi provides otherwise.

Source: Miss. Code Ann. § 75-57-1, *et seq.* (Rev. 2016)

Rule 12.04: Liquefied Compressed Gas Duties

- A. Department of Insurance - The Commissioner is vested with the sole and exclusive power and authority and is charged with the duty of administering the Liquefied Compressed Gas laws found in Title 75, Chapter 57. In administering the laws, the Commissioner shall employ an executive director and staff within the Department of Insurance (hereinafter “Department”) for the Liquefied Compressed Gas Division (hereinafter L.C. Gas Division). The Board is provided with a Board Attorney who is an attorney within the Department who shall provide legal advice to the Board. Matters regarding L.C. Gas violations that are investigated by the L.C. Gas Division and brought for administrative hearing before the Board shall be handled by the Attorney for the L.C. Gas Division, which shall be an attorney within the Department. The Board Attorney and the L.C. Gas Attorney shall not be the same person.
- B. Liquefied Compressed Gas Division - The State Fire Marshal’s Office is an Office established within the Department. The L.C. Gas Division is a Division within the State Fire Marshal’s Office which enforces the laws and regulations regarding the distribution of liquefied compressed gases and the handling of liquefied compressed gas containers within

Mississippi and other matters related to liquefied compressed gas. The L.C. Gas Division's primary responsibility is to enforce the National Fire Protection Association (NFPA) Standards 54 and 58 pertaining to liquefied compressed gas and the State's liquefied compressed gas laws and regulations. The L.C. Gas Division regularly inspects all domestic, commercial and industrial premises or buildings where liquefied compressed gases may be received, stored, transported, sold, offered or exposed for sale, manufactured, refined, distilled, compounded or blended, as well as any liquefied compressed gas container, system, pump, equipment, tank car, storage tank, or other vehicle in which any liquefied compressed gas is stored. The L.C. Gas Division is also responsible for investigating fires that occur within the State when liquefied compressed gas is the suspected cause. The L.C. Gas Division also investigates possible violations of NEPA Standards and the State's Liquefied compressed gas laws and regulations when liquefied compressed gas is involved but no fire resulted. The L.C. Gas Division coordinates its investigations of suspected liquefied compressed gas-related fires with the State Fire Marshal's Office, which is responsible for fire investigation in the State generally. The L.C. Gas Division's responsibilities in a suspected liquefied compressed gas-related fire investigation include, but are not limited to, testing and inspecting the subject gas system for installation and operating compliance with NFPA Standards 54 and 58.

- C. State Liquefied Compressed Gas Board - The Board is statutorily vested with the power to regulate matters pertaining to liquefied compressed gas, with the exception of administrative and enforcement duties which shall be retained by the Commissioner.

Source: Miss. Code Ann. § 75-57-1, *et seq.*; § 75-57-101, *et seq.* (Rev. 2016)

Rule 12.05: Investigations Conducted by the L.C. Gas Division

To insure that all fires are properly investigated, the following guidelines shall be followed by the L.C. Gas Division:

- A. All fires reported to the Department shall be directed to the State Fire Marshal's Office.
- B. The State Chief Deputy Fire Marshal will evaluate the facts and circumstances of all fires and determine how the fire investigation will be conducted.
- C. Where the State Chief Deputy Fire Marshal, or his deputies, suspect liquefied compressed gas as the cause of the fire, the L.C. Gas Director will be notified. The liquefied compressed gas system will be tested and inspected by a liquefied compressed gas inspector to verify that the gas system was installed and operating in accordance with NFPA 54 and NFPA 58.
- D. When a fire is under investigation by the State Fire Marshal's Office, the L.C. Gas Division will coordinate all their activities through the State Fire Marshal's Office.

- E. The role of the State Chief Deputy State Fire Marshal or his deputies is to investigate the cause of every fire called to the attention of the Department and to establish the point of origin and cause of each such fire.
- F. The role of the L.C. Gas Division is to verify all liquefied compressed gas systems, installations, and companies doing business in the State of Mississippi are in compliance with are in compliance with NFPA 54 and 58; the State's liquefied compressed gas laws and regulations as set. forth under Miss. Code Ann. §§ 75-57-1 through 75-57-119; and any rules and regulations adopted by the Board.

Source: Miss. Code Ann. § 75-57-1, *et seq.*; § 75-57-101, *et seq.* (Rev. 2016)

Rule 12.06: State Liquefied Compressed Gas Board

- A. Board Members - The board shall consist of seven (7) members appointed by the Commissioner of Insurance as follows:
 - 1. Four (4) members, one (1) from each of the congressional districts, to be selected from a list of at least ten (10) individuals who are in the liquefied compressed gas industry doing business in the State of Mississippi;
 - 2. Three (3) members from the state at large who have a rational relationship to the liquefied compressed gas industry.
 - 3. At least three (3) members of the board must be dealers who sell less than two million five hundred thousand (2,500,000) gallons of propane per year.
 - 4. No two (2) members may be selected from the same company.
 - 5. Any member who fails to attend three (3) consecutive called meetings of the board may be removed by the Commissioner.
- B. Chairman of the Board - The Chairman of the Board shall be elected by and from the membership of the board.
- C. Terms - The appointments to the Board shall be for staggered and shall be for terms of five (5) years, except the three (3) members from the state at large shall serve for terms concurrent with the term of the Commissioner.
- D. Vacancies - An appointment to fill a vacancy, other than by expiration of a term of office, shall be made by the Commissioner for the balance of the unexpired term.
- E. Meetings - The Board shall regularly meet on the second Thursday of every odd numbered month. The Chairman may also call a meeting, or a meeting may be called upon the written request of any three (3) members of the Board. Notice of any

such meeting shall be given in writing to members and the public by publication on the Department's website at least fourteen (14) days in advance. Meetings shall be held at the State Fire Academy in Rankin County, Mississippi.

- F. Emergency Meetings - An Emergency Meeting may be called by the Chairman when there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and which of necessity make it impossible to provide usual notice. The Chairman shall give twenty-four hours (24) notice prior to holding the emergency meeting. Emergency meetings shall be open to the public and notice will be provided with publication on the Department's website at least twenty-four (24) hours in advance of the emergency meeting. The emergency meeting may be held via teleconference.
- G. Quorum - A quorum shall be met if four (4) or more members of the board meet for the transaction of business.
- H. Reimbursement of Expenses - Board members shall receive per diem compensation according to Miss. Code Ann. § 75-56-101(4). The Board members shall not be compensated for more than twelve (12) meetings per year.
- I. Liability of Members - No member shall be liable to civil action for any act performed in good faith in the execution of his duties as a Board member.

Source: Miss. Code Ann. § 75-57-101 (Rev. 2016)

Rule 12.07: Hearing Procedures

- A. Hearings – In every case where the investigation by the State Fire Marshal's Office has determined that there was a violation of the two (2) National Fire Protection Association Standards, NFPA 54 and 58; the State's liquefied compressed gas laws as set forth under Miss. Code Ann. §§ 75-57-1 through 75-57-119; and any rules and regulations adopted by the Board, notice and hearing shall be held prior to any administrative action being taken.
- B. Right To Counsel – Any person appearing before the Board shall have the right to be represented by counsel.
- C. Impartiality – Every member of the Board present shall conduct himself in an impartial manner and the presiding official may withdraw if he deems himself disqualified. Any party may file an affidavit of personal bias or disqualification which shall be ruled upon by the Commissioner and granted if it is timely, sufficient and filed in good faith.
- D. Power and Duties of Presiding Official – The presiding officer of the hearing shall be the Chairman of the Board, under the advice of the Board Attorney, and shall have power to:
 - 1. Maintain order;

2. Rule on all questions arising during the course of the hearing;
 3. Permit discovery by deposition or otherwise;
 4. Hold conferences for the settlement or simplification of the issues;
 5. Make or recommend decisions;
 6. Generally regulate and guide the course of the proceedings.
- E. Burden Of Proof – In administrative hearings before the Board, the Attorney for the L.C. Gas Division shall have the burden of proof.
- F. Evidence – The Rules of Evidence shall not apply in an administrative matter; however, irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other evidence, oral or documentary, not privileged, may be received if it is a type commonly relied upon by reasonably prudent men in the conduct of their affairs.
- G. Objections – Objections to the introductions of evidence may be made and shall be noted of record.
- H. Evidence May Be Written – When a hearing can be so expedited and the interests of the parties will not be prejudiced any part of the evidence may be received in written form.
- I. Cross-Examination – Parties shall have the right to conduct such cross-examination as may be required for a full, true disclosure of the facts.
- J. Official Notice – Official notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts peculiarly within the Board’s specialized knowledge. Parties shall be afforded a reasonable opportunity to show the contrary.
- K. Disciplinary Actions – After notice and hearing, the Board may take disciplinary actions and impose penalties in the manner as provided in Miss. Code Ann. §§ 75-57-107 and 75-57-109.

Source: Miss. Code Ann. § 75-57-101, *et seq.* (Rev. 2016)

Rule 12.08: Appeal Procedure

Any individual aggrieved by a final decision of the Board shall be entitled to judicial review. Any appeal from the Board's decision shall be filed within thirty (30) days after notification of the action of the Board in the Circuit Court of Hinds County, Mississippi, in the manner set forth in Miss. Code Ann. § 75-57-117.

Source: Miss. Code Ann. § 75-57-117 (Rev. 2016)

Rule 12.09: Public Records

Any person requesting a public record regarding the L.C. Gas Division or the Board shall submit a written request to the Department pursuant to the provisions of the Open Records Act.

Source: Miss. Code Ann. §§ 25-61-1, *et seq.* (Rev.2010)

Rule 12.10. Severability

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: Miss. Code Ann. § 75-57-1, *et seq.*; § 75-57-101, *et seq.* (Rev. 2016)

Rule 12.11. Effective Date

This Regulation shall be effective upon adoption.

Source: Miss. Code Ann. § 25-43-3.108 (Rev. 2010)