LIQUEFIED PETROLEUM GAS SAFETY RULES

A manual of rules and procedures for handling and odorizing liquefied petroleum gas in Texas, including specifications for design, construction, and installation of equipment used in transportation, storage, and distribution

RAILROAD COMMISSION OF TEXAS

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Important Notice

These Liquefied Petroleum Gas (LP-Gas) Safety Rules apply to the design, construction, location, and operation of LP-gas systems, equipment, and appliances. The rules do not apply to marine terminals, natural gasoline plants, refineries, tank farms, gas manufacturing plants, plants engaged in processing liquefied petroleum gases, or to railroad loading racks used in connection with such establishments. The rules do apply to truck loading racks.

The rules in this publication are not consecutively numbered to allow for future expansion, so there may be a break in the numbering.

Revisions to the LP-Gas Safety Rules will occur after the date of this publication. It is your responsibility to comply with the LP-Gas Safety Rules in effect at the time the LP-gas activities are conducted or performed. The Railroad Commission's current LP-Gas Safety Rules can be viewed online at www.rrc.state.tx.us. On the gray bar at the top of the page, roll the cursor over "Meetings, Hearings, Orders & Rules" and click on "Rules." Then select "Current Rules," scroll down to "Chapter 9, LP-Gas Safety Rules" and select the rule you want to read.

The majority of the forms listed in §9.3 are also available for viewing and printing online at www.rrc.state.tx.us. On the gray bar at the top of the page, roll the cursor over "Licenses & Permits" and click on "Propane, Liquefied Gas, Compressed Gas." Then select "Propane, Liquefied Gas, Compressed Gas Forms" and choose the forms you want to view or print. If you are unable to view and print the forms, please contact the LP-Gas Operations Section at (512) 463-6462.

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To order additional copies of the LP-Gas Safety Rules, please contact the Railroad Commission's Publications Section at (512) 463-7309. Checks, money orders and MasterCard or Visa credit cards are accepted. To download or print additional copies, go to www.rrc.state.tx.us. On the gray bar at the top of the page, roll the cursor over "Education & Training" and select "Training Classes & Qualifying Exams" from the drop-down menu. Then click on the link that says "LPG Safety Rules (PDF)" under "Examinations and Certification."

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SUBCHAPTER A – GENERAL REQUIREMENTS

§9.1. Application of Rules, Severability, and Retroactivity

(a) The LP-Gas Safety Rules in this chapter apply to the design, installation, and operation of liquefied petroleum gas systems, equipment, and appliances. These standards also apply to truck and railcar loading racks, but do not apply to marine terminals, natural gasoline plants, refineries, tank farms, gas manufacturing plants, plants engaged in processing liquefied petroleum gases, or to railcar loading racks used in connection with these excluded establishments.

(1) Subchapter A, General Requirements, applies to various types of LP-gas activities, including licensing, examination, and training requirements.

(2) Subchapter B, LP-Gas Installations, Containers, Appurtenances, and Equipment Requirements, applies to proposed and existing LP-gas installations, containers, and equipment, including cylinder exchange racks.

(3) Subchapter C, Vehicles, applies to transports and bobtails that deliver LP-gas, and school buses and other vehicles that are powered by LP-gas.

(4) Subchapter D, Adoption by Reference of NFPA 54 (National Fuel Gas Code), applies to the adoption by reference of NFPA 54 and specifies additional or alternative requirements from those found in NFPA 54.

(5) Subchapter E, Adoption by Reference of NFPA 58 (LP-Gas Code), applies to the adoption by reference of NFPA 58 and specifies additional or alternative requirements from those found in NFPA 58.

(b) If any term, clause, or provision of these rules is for any reason declared invalid, the remainder of the provisions shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

(c) Nothing in these rules shall be construed as requiring, allowing, or approving the unlicensed practice of engineering or any other professional occupation requiring licensure.

(d) Unless otherwise stated, the LP-Gas Safety Rules in this chapter are not retroactive. Any installation of an LP-gas system, containers, and appliances shall meet the requirements of this chapter at the time of installation.

(e) As stated in Texas Natural Resources Code, Chapter 113, any LP-gas container with a water capacity of one gallon or less, or any LP-gas piping system, or appliance attached or connected to such a container is exempt from the LP-Gas Safety Rules in this chapter, including any adopted NFPA pamphlets. For the purpose of consistency, the figure of 4.20 lb is the equivalent of one gallon of LP-gas.

(f) This chapter shall not apply to vehicles and fuel supply containers that:

(1) are manufactured or installed by original equipment manufacturers; and

(2) comply with Title 49, Code of Federal Regulations, the Federal Motor Vehicle Safety Standards.

(g) Vehicles and fuel supply containers excluded from the requirements of this chapter pursuant to subsection (f) of this section shall comply with the requirements of §9.203 of this title, (relating to School Bus, Public Transportation, Mass

Transit, and Special Transit Vehicle Installations and Inspections), and the Commission's exception to NFPA 58, Chapter 11, in Table 1 in §9.403 of this table, relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional Requirements.

§9.2. Definitions

In addition to the definitions in any adopted NFPA pamphlets, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) AFS--The Commission's Alternative Fuels Safety Department within the Commission's Oversight and Safety Division.

(2) Advanced field training (AFT)--The final portion of the training or continuing education requirements in which an individual shall successfully perform the specified LP-gas activities in order to demonstrate proficiency in those activities.

(3) AFT materials--The portion of a Commission training module consisting of the four sections of the Railroad Commission's LP-Gas Qualifying Field Activities, including General Instructions, the Task Information, the Operator Qualification Checklist, and the Railroad Commission/Employer Record.

(4) Aggregate water capacity (AWC)--The sum of all individual container capacities measured by weight or volume of water which are placed at a single installation location.

(5) Bobtail driver--An individual who operates an LP-gas cargo tank motor vehicle of 5,000 gallons water capacity or less in metered delivery service.

(6) Breakaway--The accidental separation of a hose from a cylinder, container, transfer equipment, or dispensing equipment, which could occur on a cylinder, container, transfer equipment, or dispensing equipment whether or not they are protected by a breakaway device.

(7) Certificate holder--An individual:

(A) who has passed the required management-level qualification examination, pursuant to §9.10 of this title;

(B) who has passed the required employee-level qualification examination, pursuant to §9.10 of this title;

(C) who holds a current reciprocal examination exemption pursuant to §9.18 of this title (relating to Reciprocal Examination Agreements with Other States); or

(D) who holds a current examination exemption pursuant to §9.13 of this title (relating to General Installers and Repairman Exemption).

(8) Certified--Authorized to perform LP-gas work as set forth in the Texas Natural Resources Code. Employee certification alone does not allow an individual to perform those activities which require licensing.

(9) CETP--The Certified Employee Training Program offered by the Propane Education and Research Council (PERC), the National Propane Gas Association (NPGA), or their authorized agents or successors.

(10) Commercial installation--An LP-gas installation located on premises other than a single family dwelling used as a residence, including but not limited to a retail business establishment, school, bulk storage facility, convalescent home, hospital, cylinder exchange operation, service station, forklift refueling facility, private motor/mobile fuel cylinder filling operation, a microwave tower, or a public or private agricultural installation.

(11) Commission--The Railroad Commission of Texas.

(12) Company representative--The individual designated to the Commission by a license applicant or a licensee as the principal individual in authority and, in the case of a licensee other than a Category P licensee, actively supervising the conduct of the licensee's LP-gas activities.

(13) Container delivery unit--A vehicle used by an operator principally for transporting LP-gas in cylinders.

(14) Continuing education--Courses required to be successfully completed at least every four years by certificate holders to maintain certification.

(15) Director--The director of AFS or the director's delegate.

(16) DOT--The United States Department of Transportation.

(17) Employee--An individual who renders or performs any services or labor for compensation, including individuals hired on a part-time or temporary basis, on a full-time or permanent basis, and owner-employees.

(18) Interim approval order--The authority issued by the Railroad Commission of Texas following a public hearing allowing construction of an LP-gas installation.

(19) Leak grades--An LP-gas leak that is:

(A) a Grade 1 leak that represents an existing or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous; or

(B) a Grade 2 leak that is recognized as being nonhazardous at the time of detection, but requires a scheduled repair based on a probable future hazard.

(20) Licensed--Authorized by the Commission to perform LP-gas activities through the issuance of a valid license.

(21) Licensee--A person which has applied for and been granted an LP-gas license by the Commission, or who holds a master or journeyman plumber license from the Texas State Board of Plumbing Examiners or a Class A or B Air Conditioning and Refrigeration Contractors License from the Texas Department of Licensing and Regulation and has properly registered with the Commission.

(22) LP-Gas Safety Rules--The rules adopted by the Railroad Commission in the Texas Administrative Code, Title 16, Part 1, Chapter 9, including any NFPA or other documents adopted by reference. The official text of the Commission's rules is that which is on file with the Secretary of State's office and available at www.sos.state.tx.us or through the Commission's web site at www.rrc.state.tx.us.

(23) LP-gas system--All piping, fittings, valves, and equipment, excluding containers and appliances, that connect one or more containers to one or more appliances that use or consume LP-gas.

(24) Mass transit vehicle--Any vehicle which is owned or operated by a political subdivision of a state, city, or county, used primarily in the conveyance of the general public.

(25) Mobile fuel container--An LP-gas container mounted on a vehicle to store LP-gas as the fuel supply to an auxiliary engine other than the engine to propel the vehicle or for other uses on the vehicle.

(26) Mobile fuel system--An LP-gas system, excluding the container, to supply LP-gas as a fuel to an auxiliary engine other than the engine to propel the vehicle or for other uses on the vehicle.

(27) Motor fuel container--An LP-gas container mounted on a vehicle to store LP-gas as the fuel supply to an engine used to propel the vehicle.

(28) Motor fuel system--An LP-gas system, excluding the container, which supplies LP-gas to an engine used to propel the vehicle.

(29) Noncorrosive--Corrosiveness of gas which does not exceed the limitation for Classification 1 of ASTM International (ASTM) Copper Strip Classifications when tested in accordance with ASTM D 1834-64, "Copper Strip Corrosion of Liquefied Petroleum (LP) Gases."

(30) Nonspecification unit--An LP-gas transport not constructed to DOT MC-330 or MC-331 specifications but which complies with the exemption in 49 Code of Federal Regulations §173.315(k). (See also "Specification unit" in this section.)

(31) Operations supervisor--The individual who is certified by the Commission to actively supervise a licensee's LP-gas activities and is authorized by the licensee to implement operational changes.

(32) Outlet--A site operated by an LP-gas licensee from which any regulated LP-gas activity is performed.

(33) Outside instructor--An individual, other than a Commission employee, approved by AFS to teach certain LP-gas training or continuing education courses.

(34) Person--An individual, partnership, firm, corporation, joint venture, association, or any other business entity, a state agency or institution, county, municipality, school district, or other governmental subdivision, or licensee, including the definition of "person" as defined in the applicable sections of 49 CFR relating to cargo tank hazardous material regulations.

(35) Portable cylinder--A receptacle constructed to DOT specifications, designed to be moved readily, and used for the storage of LP-gas for connection to an appliance or an LP-gas system. The term does not include a cylinder designed for use on a forklift or similar equipment.

(36) Property line--The boundary which designates the point at which one real property interest ends and another begins.

(37) Public transportation vehicle--A vehicle for hire to transport persons, including but not limited to taxis, buses (excluding school buses and mass transit or special transit vehicles), or airport courtesy vehicles.

(38) Recreational vehicle--A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle.

(39) Registered manufacturer--A person who has applied for and been granted a registration to manufacture LP-gas containers by the Commission.

(40) Repair to container--The correction of damage or deterioration to an LP-gas container, the alteration of the structure of such a container, or the welding on such container in a manner which causes the temperature of the container to rise above 400 degrees Fahrenheit.

(41) Rules examination--The Commission's written examination that measures an examinee's working knowledge of Chapter 113 of the Texas Natural Resources Code and/or the current rules in this chapter.

(42) School--A public or private institution which has been accredited through the Texas Education Agency or the Texas Private School Accreditation Commission.

(43) School bus--A vehicle that is sold or used for purposes that include carrying students to and from school or related events.

(44) Service station--An LP-gas installation that, for retail purposes, operates a dispensing station and/or conducts cylinder filling activities.

(45) Self-service dispenser--A listed device or approved equipment in a structured cabinet for dispensing and metering LP-gas between containers that must be accessed by means of a locking device such as a key, card, code, or electronic lock, and which is operated by a certified employee of an LP-gas licensee or an ultimate consumer trained by an LP-gas licensee.

(46) Special transit vehicle--A vehicle designed with limited passenger capacity which is used by a mass transit authority for special transit purposes, such as transport of mobility impaired persons.

(47) Specification unit--An LP-gas transport constructed to DOT MC-330 or MC-331 specifications. (See also "Nonspecification unit" in this section.)

(48) Subframing--The attachment of supporting structural members to the pads of a container, excluding welding directly to or on the container.

(49) Trainee--An individual who has not yet taken and passed an employee-level rules examination.

(50) Training--Courses required to be successfully completed as part of an individual's requirements to obtain or maintain certain certificates.

(51) Transfer system--All piping, fittings, valves, pumps, compressors, meters, hoses, bulkheads, and equipment utilized in transferring LP-gas between containers.

(52) Transport--Any bobtail or semitrailer equipped with one or more containers.

(53) Transport driver--An individual who operates an LP-gas trailer or semi-trailer equipped with a container of more than 5,000 gallons water capacity.

(54) Transport system--Any and all piping, fittings, valves, and equipment on a transport, excluding the container.

(55) Ultimate consumer--A person who buys a product to use rather than for resale.

§9.3. LP-Gas Report Forms

Forms required to be filed with AFS shall be those prescribed by the Commission. A complete set of all required forms shall be posted on the Commission's web site. Notice of any new or amended forms shall be issued by the Commission. A person may file the prescribed form on paper or use any electronic filing process. The Commission may accept an earlier version of a prescribed form, provided that it contains all required information.

§9.4. Records and Enforcement

(a) Records. Each LP-gas licensee, registered manufacturer, or other registrant shall retain:

(1) records of pressure tests and leakage tests for at least five years;

(2) a copy of all documentation submitted for an exception to an LP-gas rule pursuant to §9.27 of this title (relating to Application for an Exception to a Safety Rule), including the AFS director's memorandum granting the exception, for as long as the exception is in use; and

(3) a copy of all customer records for at least five years.

(b) Periodic inspection. AFS shall formulate a plan or program for periodic evaluation or inspection of records and facilities owned, operated, or serviced by LP-gas licenses, registered manufacturers, or other registrants for the purpose of verifying compliance with this chapter.

(c) Scope of inspection. During normal business hours, an authorized representative of the Commission may, at any reasonable time, inspect the files, records, reports, documents, equipment, transports, and facilities of an LP-gas licensee for the purpose of verifying compliance with this chapter.

(d) Licensee, registered manufacturer, and other registrant obligations.

(1) A registrant, officer, employee, or representative of an LP-gas licensee shall cooperate with the Commission and its authorized representatives in the administration and enforcement of the provisions in this chapter, in the determination of compliance with the provisions of this chapter, and in the investigation of violations, complaints alleging violations, and accidents or incidents involving LP-gas.

(2) A registrant, officer, employee, or representative of an LP-gas licensee shall make readily available all files, records, reports, documents and information, and shall make readily accessible all company equipment, property, and facilities as the Commission or its authorized representative may reasonably require in the administration and enforcement of this chapter, and in the investigation of violations, complaints alleging violations, and accidents or incidents involving LP-gas.

(3) Upon request by an authorized representative of the Commission, an LP-gas licensee's officer, employee, or representative, or a registrant shall provide copies of records, files, reports, documents, and information for administration and enforcement of this chapter.

§9.5. Effect of Safety Violations

(a) Except as provided by subsections (c) and (d) of this section, the Commission may not approve an application for a license, an exemption, or a manufacturer registration, or their associated renewals, under this chapter if the applicant has violated a statute or Commission rule, order, license, permit, or certificate that relates to safety. If a person who holds a position of ownership or control in the applicant has held a position of ownership or control in another person during the seven years preceding the date on which the application is filed and during that period of ownership or control the other person violated a statute or Commission rule, order, license, registration, permit, or certificate that relates to safety, then that violation will be attributed to the applicant. Regardless of whether the person's name appears or is required to appear on an application, a person holds a position of ownership or control in an applicant if the person is:

(1) an officer, director, general partner, sole owner, or trustee of, or the owner of at least 25 percent of the beneficial interest in the applicant; or

(2) the applicant and has been determined by a final judgment or final administrative order to have exerted actual control over the applicant.

(b) An applicant has committed a violation described by subsection (a) of this section if:

(1) a final judgment or final administrative order finding the violation has been entered against the applicant, registrant for an exemption, or other person and all appeals have been exhausted; or

(2) the Commission and the applicant have entered into an agreed order relating to the alleged violation.

(c) Notwithstanding subsection (a) of this section, the Commission shall approve an application for a license, an exemption, or a manufacturer registration under this chapter if all of the following conditions, if applicable, are met:

(1) the conditions that constituted the violation have been corrected or are being corrected in accordance with a schedule to which the Commission and the applicant have agreed;

(2) all administrative, civil, and criminal penalties have been paid or are being paid in accordance with a payment schedule to which the Commission and the applicant have agreed; and

(3) the application complies with all other requirements of law and Commission rules.

(d) The Commission may issue a license, exemption, or manufacturer registration to an applicant described by subsection (a) of this section for a term specified by the Commission if the license, exemption, or manufacturer registration is necessary to remedy a violation of law or Commission rules.

(e) If the Commission is prohibited by subsection (a) of this section from approving an application for a license, an exemption, or a manufacturer registration, then the Commission, after notice and opportunity for a hearing, by order may refuse to renew or may revoke a license, exemption, or a manufacturer registration issued under this chapter.

(1) In determining whether to refuse to renew or to revoke a person's license, exemption, or a manufacturer registration under this subsection, the Commission shall consider the person's history of previous violations, the seriousness of previous violations, any hazard to the health or safety of the public, and the demonstrated good faith of the person.

(2) If the Commission issues a refusal or revocation under this subsection, the Commission shall provide the applicant with a written statement explaining the reason for the denial.

(3) An order issued under this subsection must provide the applicant a reasonable period to comply with the judgment or order finding the violation before the order takes effect.

(4) The Commission's refusal to renew or revocation of a person's license, exemption, or a manufacturer registration under this subsection does not relieve the person of any existing or future duty under law, rules, or license or registration conditions.

(5) On refusal to renew or revocation of a person's license, exemption, or a manufacturer registration under this subsection, the person may not perform any activities under the jurisdiction of the Commission under this chapter, except as necessary to remedy a violation of law or Commission rules and as authorized by the Commission under a license, an exemption, or a manufacturer registration issued under subsection (d) of this section.

(6) A fee tendered in connection with an application that is denied under this section is nonrefundable.

(7) The Commission may not revoke or refuse to renew a license, an exemption, or a manufacturer registration under this subsection if the Commission finds that the applicant, licensee, registered manufacturer, or other registrant has fulfilled the conditions set out in subsection (c) of this section.

§9.6. License Categories, Container Manufacturer Registration, and Fees

(a) A prospective licensee may apply to AFS for one or more licenses specified in subsection (b) of this section. Beginning June 1, 2020, a prospective container manufacturer may apply to AFS for a container manufacturer registration specified in subsection (d) of this section. Prior to June 1, 2020, container manufacturers must be licensed as Category A, A1 or A2 in order to manufacture containers in the state of Texas. Fees required to be paid shall be those established by the Commission and in effect at the time of application or renewal and shall be paid at the time of application or renewal.

(b) The license categories and fees are as follows.

(1) A Category A license for container assembly and repair authorizes the assembly, repair, installation, subframing, testing, and sale of ASME or DOT LP-gas containers, including LP-gas motor or mobile fuel containers and systems, and the repair and installation of transport and transfer systems. A Category A license includes all activities covered by a Category A1 and Category A2 license. The original license fee is $1,000; the renewal fee is $600.

(2) A Category A1 license for ASME container assembly and repair authorizes the assembly, repair, installation, testing, and sale of ASME containers, including LP-gas motor or mobile fuel containers and systems, and the repair and installation of transport and transfer systems. The original license fee is $1,000; the renewal fee is $600.

(3) A Category A2 license for U.S. Department of Transportation (DOT) container assembly and repair authorizes the assembly, repair, installation, subframing, testing, and sale of LP-gas DOT containers, including LP-gas motor

or mobile fuel containers and systems, and the repair and installation of transport and transfer systems. The original license fee is $1,000; the renewal fee is $600.

(4) A Category B license for transport outfitters authorizes the subframing, testing, and sale of LP-gas transport containers, the testing of LP-gas storage containers, the installation, testing, and sale of LP-gas motor or mobile fuel containers and systems, and the installation and repair of transport systems and motor or mobile fuel systems. The original license fee is $400; the renewal fee is $200.

(5) A Category C license for carriers authorizes the transportation of LP-gas by transport, including the loading and unloading of LP-gas, and the installation and repair of transport systems. The original license fee is $1,000; the renewal fee is $300.

(6) A Category D license for general installers and repairmen authorizes the sale, service, and installation of containers and the service, installation, and repair of piping and appliances. A Category D license does not authorize the installation of motor fuel containers, motor fuel systems, recreational vehicle containers, or recreational vehicle systems. The original license fee is $100; the renewal fee is $70. Persons with certain licenses issued by the Texas State Board of Plumbing Examiners or the Texas Department of Licensing and Regulation may register with AFS as described in §9.13 of this title (relating to General Installers and Repairman Exemption).

(7) A Category E license for retail and wholesale dealers authorizes the storage, sale, transportation, and distribution of LP-gas at retail and wholesale dealers, and all other activities included in this section, except the manufacture, fabrication, assembly, repair, subframing, and testing of LP-gas containers, and except the sale and installation of LP-gas motor or mobile fuel systems that service an engine with a rating of more than 25 horsepower. The original license fee is $750; the renewal fee is $300.

(8) A Category F license for cylinder filling authorizes the operation of a cylinder filling facility, including cylinder filling, the sale of LP-gas in cylinders, and the replacement of cylinder valves. The original license fee is $100; the renewal fee is $50.

(9) A Category G license for dispensing stations authorizes the operation of LP-gas dispensing stations filling ASME containers designed for motor or mobile fuel. The original license fee is $100; the renewal fee is $50.

(10) A Category H license for cylinder dealers authorizes the transportation and sale of LP-gas in cylinders. The original license fee is $1,000; the renewal fee is $300.

(11) A Category I license for service stations and cylinder filling authorizes any cylinder activity set out in Category F and dispensing station operations set our in paragraph (9) of this subsection. A Category I license does not authorize the transportation of LP-gas. The original license fee is $150; the renewal fee is $70.

(12) A Category J license for service stations and cylinder facilities authorizes the operation of a cylinder filling facility, including cylinder filling and the sale, transportation, installation, and connection of LP-gas in cylinders, the replacement of cylinder valves, and the operation of an LP-gas service station as set out in Category G. The original license fee is $1,000; the renewal fee is $300.

(13) A Category K license for distribution systems authorizes the sale and distribution of LP-gas through mains or pipes, and the installation and repair of LP-gas systems. The original license fee is $1,000; the renewal fee is $300.

(14) A Category L license for engine and mobile fuel authorizes the sale and installation of LP-gas motor or mobile fuel containers, and the sale and installation of LP-gas motor or mobile fuel systems. The original license fee is $100;

the renewal fee is $50.

(15) A Category M license for recreational vehicle installers and repairmen authorizes the sale, service, and installation of recreational vehicle containers, and the installation, repair, and service of recreational vehicle appliances, piping, and LP-gas systems, including recreational vehicle motor or mobile fuel systems and containers. The original license fee is $100; the renewal fee is $70.

(16) A Category N license for manufactured housing installers and repairmen authorizes the service and installation of containers that supply fuel to manufactured housing, and the installation, repair, and service of appliances and piping systems for manufactured housing. The original license fee is $100; the renewal fee is $70.

(17) A Category O license for testing laboratories authorizes the testing of LP-gas containers, LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems for the purpose of determining the safety of the containers or systems for LP-gas service, including the necessary installation, disconnection, reconnection, testing, and repair of LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems involved in the testing of containers. The original license fee is $400; the renewal fee is $100.

(18) A Category P license for portable cylinder exchange authorizes the operation of a portable cylinder exchange service, where the sale of LP-gas is within a portable cylinder with an LP-gas capacity not to exceed 21 pounds, where the portable cylinders are not filled on site, and where no other LP-gas activity requiring a license is conducted. The original license fee is $100; the renewal fee is $50.

(c) A military service member, military veteran, or military spouse shall be exempt from the original license fee pursuant to the requirements in §9.14 of this title (relating to Military Fee Exemption). An individual who receives a military fee exemption is not exempt from renewal or transport registration fees specified in §9.7 and §9.202 of this title (relating to Applications for Licenses, Manufacturer Registrations, and Renewals; and Registration and Transfer of LP-Gas Transports or Container Delivery Units, respectively).

(d) A container manufacturer registration authorizes the manufacture, assembly, repair, testing and sale of LP-gas containers. The original registration fee is $1,000; the renewal fee is $600.

§9.7. Applications for Licenses, Manufacturer Registration and Renewals

(a) In addition to complying with NFPA 54 §4.1, no person may engage in any LP-gas activity until that person has obtained a license from the Commission authorizing the LP-gas activities, except as follows:

(1) A person is exempt from licensing under Texas Natural Resources Code §113.081(b) but is required to obtain a license before engaging in any LP-gas activities in commerce or business.

(2) A state agency or institution, county, municipality, school district, or other governmental subdivision is exempt from licensing requirements as provided by §113.081(g) if the entity is performing LP-gas activities on its own behalf but is required to obtain a license if performing LP-gas activities for or on behalf of a second party.

(3) An original manufacturer of a new motor vehicle powered by LP-gas, or a subcontractor of a manufacturer who produces a new LP-gas powered motor vehicle for the manufacturer is not subject to licensing requirements but shall comply with all other rules in this chapter.

(4) An ultimate consumer is not subject to licensing requirements if performing LP-gas activities dealing only with

the ultimate consumer; however, a license is required to register a transport, bobtail, or cylinder delivery unit. An ultimate consumer's license does not require a fee or a company representative.

(b) An applicant for license shall not engage in any LP-gas activities until it has employed a company representative who meets the requirements of §9.17 of this title (relating to Designation and Responsibilities of Company Representatives and Operations Supervisors) or for Category D applicants only, who meets the requirements of §9.17 of this title or has obtained a General Installers and Repairman Exemption as specified in §9.13 of this title (relating to General Installers and Repairman Exemption).

(c) Licensees, registered manufacturers, company representatives, and operations supervisors at each outlet shall have copies of all current licenses and/or manufacturer registrations and certificates for employees at that location available for inspection during regular business hours. In addition, licensees and registered manufacturers shall maintain a current version of the rules in this chapter and shall provide access to these rules for each company representative and operations supervisor. The rules shall also be available to employees during business hours.

(d) Licenses and manufacturer registrations issued under this chapter expire one year after issuance at midnight on the last day of the month prior to the month in which they are issued.

(e) If a license or registration expires, the person shall immediately cease LP-gas activities.

(f) An applicant for a new license shall submit to AFS:

(1) a properly completed LPG Form 1 listing all names under which LP-gas related activities requiring licensing are to be conducted and the applicant's properly qualified company representative and the following forms or documents as applicable:

(A) LPG Form 1A if the applicant will operate any outlets pursuant to subsection (g) of this section;

(B) LPG Form 7 and any information requested in §9.202 of this title (relating to Registration and Transfer of LP-Gas Transports or Container Delivery Units) if the applicant intends to register any LP-gas transports or container delivery units;

(C) LPG Form 19 if the applicant will be transferring the operation of an existing bulk plant, service station, cylinder filling, or portable cylinder exchange rack installation from another licensee;

(D) any form required to comply with §9.26 of this title (relating to Insurance and Self-Insurance Requirements);

(E) a copy of the current certificate of account status if required by §9.21 of this title (relating to Franchise Tax Certification and Assumed Name Certificates); and/or

(F) copies of the assumed name certificates if required by §9.21 of this title; and

(2) payment for all applicable fees. If the applicant submits the payment by mail, the payment shall be in the form of a check or money order. If the applicant pays the applicable fee online, the applicant shall submit a copy of the online receipt via mail, email, or fax.

(g) A licensee shall submit LPG Form 1A listing all outlets operated by the licensee.

(1) The licensee shall employ at each outlet an operations supervisor who meets the requirements of §9.17 of this title.

(2) Each outlet shall be listed on the licensee's renewal as specified in subsection (i) of this section.

(h) Beginning June 1, 2020, a prospective container manufacturer may apply to AFS to manufacture LP-gas containers in the state of Texas. Beginning June 1, 2020, a person shall not engage in the manufacture of LP-gas containers in this state unless that person has obtained a container manufacturer's registration as specified in this subsection.

(1) Applicants for container manufacturer registration shall file with AFS LPG Form 1M, and any of the following applicable forms or documents:

(A) any form required by §9.26 of this title;

(B) a copy of current certificate of account status if required by §9.21 of this title;

(C) copies of the assumed name certificates if required by §9.21 of this title;

(D) a copy of current DOT authorization. A registered manufacturer shall not continue to operate after the expiration date of the DOT authorization; and/or

(E) a copy of current ASME Code, Section VIII certificate of authorization or "R" certificate. If ASME is unable to issue a renewed certificate of authorization prior to the expiration date, the manufacturer may request in writing an extension of time not to exceed 60 calendar days past the expiration date. The request for extension shall be received by AFS prior to the expiration date of the ASME certificate of authorization referred to in this section, and shall include a letter or statement from ASME that the agency is unable to issue the renewal certificate of authorization prior to expiration and that a temporary extension will be granted for its purposes. A registered manufacturer shall not continue to operate after the expiration date of an ASME certificate of authorization until the manufacturer files a current ASME certificate of authorization with AFS or AFS grants a temporary exception.

(2) By filing LPG Form 1 M, the applicant certifies that it has read the requirements of this chapter and shall comply with all applicable rules, regulations and adopted standards.

(3) The required fee shall accompany LPG Form l M. An original registration fee is $1,000: the renewal fee is $600.

(A) If submitted by mail, payment shall be by check, money order, or printed copy of an online receipt.

(B) If submitted by email or fax, payment shall be a copy of an online receipt.

(4) If a manufacturer registration expires or lapses, the person shall immediately cease the manufacture, assembly, repair, testing and sale of LP-gas containers in Texas.

(i) AFS will review an application for license or registration to verify all requirements have been met.

(1) If errors are found or information is missing on the application or other documents, AFS will notify the applicant of the deficiencies in writing.

(2) The applicant must respond with the required information and/or documentation within 30 days of the written notice. Failure to respond by the deadline will result in withdrawal of the application.

(3) If all requirements have been met, AFS will issue the license or manufacturer registration and send the license or registration to the licensee or manufacturer, as applicable.

(i) For license and manufacturer registration renewals:

(1) AFS shall notify the licensee or registered manufacturer in writing at the address on file with AFS of the impending license or manufacturer registration expiration at least 30 calendar days before the date the license or registration is scheduled to expire.

(2) The renewal notice shall include copies of applicable LPG Forms 1, 1A, and 7, or LPG Form 1M showing the information currently on file.

(3) The licensee or registered manufacturer shall review and return all renewal documentation to AFS with any necessary changes clearly marked on the forms. The licensee or registered manufacturer shall submit any applicable fees with the renewal documentation.

(4) Failure to meet the renewal deadline set forth in this section shall result in expiration of the license or manufacturer registration.

(5) If a person's license or manufacturer registration expires, that person shall immediately cease performance of any LP-gas activities authorized by the license or registration.

(6) If a person's license or manufacturer registration has been expired for 90 calendar days or fewer, the person shall submit a renewal fee that is equal to 1 1/2 times the renewal fee required by §9.6 of this title (relating to License Categories, Container Manufacturer Registration, and Fees).

(7) If a person's license or manufacturer registration has been expired for more than 90 calendar days but less than one year, the person shall submit a renewal fee that is equal to two times the renewal fee.

(8) If a person's license or manufacturer registration has been expired for one year or more, that person shall not renew, but shall comply with the requirements for issuance of an original license or manufacturer registration under subsection (f) or (h) of this section.

(9) After verification that the licensee or registered manufacturer has met all requirements for licensing or manufacturer registration, AFS shall renew the license or registration and send the applicable authorization to the licensee or manufacturer.

(k) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person shall pay to AFS a fee that is equal to two times the renewal fee required by §9.6 of this title.

(1) As a prerequisite to licensing pursuant to this provision, the person shall submit, in addition to an application for licensing, proof of having been in practice and licensed in good standing in another state continuously for the two years immediately preceding the filing of the application;

(2) A person licensed under this provision shall be required to comply with all requirements of licensing other than the examination requirement, including but not limited to the insurance requirements as specified in §9.26 of this title and the continuing education and training requirements as specified in §9.51 of this title (relating to General Requirements for LP-Gas Training and Continuing Education) and §9.52 of this title (relating to Training and Continuing Education).

(l) Applicants for license or license renewal in the following categories shall comply with these additional requirements:

(1) An applicant for a Category B or O license or renewal shall file with AFS a properly completed LPG Form 505 certifying that the applicant will follow the testing procedures indicated. The company representative designated on the licensee's LPG Form 1 shall sign LPG Form 505.

(2) An applicant for Category A, B, or O license or renewal who tests tanks, subframes LP-gas cargo tanks, or performs other activities requiring DOT registration shall file with AFS a copy of any applicable current DOT registrations. Such registration shall comply with Title 49, Code of Federal Regulations, Part 107 (Hazardous Materials Program Procedures), Subpart F (Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers and Repairers and Cargo Tank Motor Vehicle Assemblers).

§9.8. Requirements AND Application for a New Certificate

(a) In addition to complying with NFPA 58 §§4.4 and 11.2, no person shall perform work, directly supervise LP-gas activities, or be employed in any capacity requiring contact with LP-gas unless:

(1) that individual is a certificate holder who is:

(A) in compliance with all applicable training and continuing education requirements in §9.51 and §9.52 of this title (relating to General Requirements for LP-Gas Training and Continuing Education, and Training and Continuing Education, respectively);

(B) in compliance with renewal requirements in §9.9 of this title (relating to Requirements for Certificate Holder Renewal); and

(C) employed by a licensee or a license-exempt entity in accordance with +9.7 of this title (relating to Application for Licenses, Manufacturer Registrations, and Renewals) or holds a current examination exemption pursuant to §9.13 of this title (relating to General Installers and Repairman Exemption); or

(2) that individual is a trainee who complies with §9.12 of this title (relating to Trainees),

(b) Any individual, including an ultimate consumer, using an LP-gas transport on a public roadway must obtain a certificate.

(c) An applicant for a new certificate shall:

(1) file with AFS a properly completed LPG Form 16 and the applicable nonrefundable rules examination fee specified in §9.10 of this title (relating to Rules Examination);

(2) pass the applicable rules examination with a score of at least 75%; and

(3) complete any required training and/or AFT in §9.51 and §9.52 of this title.

(d) An individual who holds an employee-level certificate who wishes to obtain a management-level certificate shall comply with the requirements of this section, including training and fees.

§9.9. Requirements for Certificate Renewal

(a) In order to maintain active status, certificate holders shall renew their certificate annually as specified in this section.

(b) AFS shall notify licensees of any of their employees' pending renewal deadlines and shall notify the individual if not employed by a licensee, in writing, at the address on file with AFS no later than March 15 of a year for the May 31 renewal date of that year.

(c) Certificate holders shall remit the nonrefundable $35 annual certificate renewal fee to AFS on or before May 31 of each year. Individuals who hold more than one certificate shall pay only one annual renewal fee.

(1) Failure to pay the nonrefundable annual renewal fee by the deadline shall result in a lapsed certificate.

(A) To renew a lapsed certificate, the individual shall pay the nonrefundable $35 annual renewal fee plus a nonrefundable $20 late-filing fee. Failure to do so shall result in the expiration of the certificate.

(B) If an individual's certificate lapses or expires, that individual shall immediately cease performance of any LP-gas activities authorized by the certificate.

(C) If an individual's certificate has been expired for more than two years from May 31 of the year in which the certificate lapsed, that individual shall comply with the requirements in §9.8 of this title (relating to Requirements and Application for a New Certificate) or §9.13 of this title.

(2) Upon receipt of the annual renewal fee and any late-filing fee, AFS shall verify that all applicable requirements have been met. After verification, AFS shall renew the certificate and send a copy of the certificate, or exemption card, if applicable, and the individual may continue or resume LP-gas activities authorized by that certificate.

(d) Certificate holders shall successfully complete the continuing education requirements as specified in §9.51 and §9.52 of this title (relating to General Requirements for LP-Gas Training and Continuing Education, and Training and Continuing Education) to maintain active status.

(1) Failure to comply with the continuing education requirements by the assigned deadline shall result in a lapsed certificate.

(2) If a certificate lapses as specified in paragraph (1) of this subsection, the individual shall pay the $20 late fee.

(3) If an individual's certificate lapses or expires, that individual shall immediately cease performance of any LP-gas activities authorized by the certificate.

(4) If an individual's certificate has been expired for more than two years, that individual shall comply with the

requirements in §9.8 or §9.13 of this title.

(e) Individuals renewing a certificate under §9.13 of this title must maintain a valid master or journeyman plumbers license or Class A or B Air Conditioning and Refrigeration Contractors license to renew their Commission certificate.

(f) Individuals renewing a certificate issued through reciprocal agreement under §9.18 of this title (relating to Reciprocal Examination Agreement with Other States) must maintain a valid certification in the state of original certification to renew their Commission certificate.

§9.10. Rules Examination

(a) An individual who passes the applicable rules examination with a score of at least 75% will become a certificate holder. AFS will send a certificate to the licensee listed on LPG Form 16. If a licensee is not listed on the form, AFS will send the certificate to the individual's personal address.

(1) Successful completion of any examination shall be credited to and accrue to the individual,

(2) An individual who has been issued a certificate shall make the certificate readily available and shall present it to any Commission employee or agent who requests proof of certification.

(b) An applicant for examination shall bring to the exam site:

(1) a completed LPG Form 16;and

(2) payment of the applicable fee specified in subsection (c) of this section.

(c) An individual who files LPG Form 16 and pays the applicable nonrefundable examination fee may take the rules examination.

(1) Dates and locations of available Commission LP-gas examinations may be obtained in the Austin offices of AFS and on the Commission's web site at www.rrc.state.tx.us, and shall be updated at least monthly. Examinations may be conducted at the Commission's AFS Training Center in Austin, between the hours of 8:00 AM and 12:00 noon, Monday through Friday, except for state holidays, and at other designated times and locations around the state. Individuals or companies may request in writing that examinations be given in their area. AFS shall schedule its examinations and locations at its discretion.

(2) Except in a case where a conditional qualification has been requested in writing and approved under §9.17(g) of this title (relating to Designation and Responsibilities of Company Representatives and Operations Supervisors), the Category E, F, G, I, and J management-level rules examination shall be administered only in conjunction with the Category E, F, G, I and J management-level courses of instruction. Management-level rules examinations other than Category E, F, G, I and J may be administered on any scheduled examination day.

(3) Exam fees.

(A) The nonrefundable management-level rules examination fee is $70.

(B) The nonrefundable employee-level rules examination fee is $40.

(C) The nonrefundable examination fee shall be paid each time an individual takes an examination.

(D) Individuals who register and pay for a Category E, F, G, I or J training course as specified in §9.51(j)(2)(A) of this title (relating to General Requirements for LP-Gas Training and Continuing Education) shall pay the charge specified for the applicable examination.

(E) A military service member, military veteran, or military spouse shall be exempt from the examination fee pursuant to the requirements in §9.14 of this title (relating to Military Fee Exemption). An individual who receives a military fee exemption is not exempt from renewal, training, or continuing education fees specified in §9.9 of this title (relating to Requirements for Certificate Holder Renewal), §9.51 of this title, and §9.52 of this title (relating to Training and Continuing Education).

(4) Time limits.

(A) An applicant shall complete the examination within the time limit specified in this paragraph.

(i) The Category E management-level (closed book), Bobtail employee-level (open book), and Service and Installation employee-level (open book) examinations shall be limited to three hours.

(ii) All other management-level and employee-level examinations shall be limited to two hours.

(B) The examination proctor shall be the official timekeeper.

(C) An examinee shall submit the examination and the answer sheet to the examination proctor before or at the end of the established time limit for an examination.

(D) The examination proctor shall mark any answer sheet that was not completed within the time limit.

(5) The Commission may offer employee-level LP-Gas Transport Driver, DOT Cylinder Filling, and Motor/Mobile Fuel Dispensing examinations in Spanish or English.

(d) This subsection specifies the examinations offered by the Commission.

(1) Employee-level examinations.

(A) The Bobtail Driver examination qualifies an individual to operate a bobtail, to perform all the LP-gas activities authorized by the Transport Driver, DOT Cylinder Filler, and Motor/Mobile Fuel Filler examinations, and to perform leak checks and pressure tests, light appliances, and adjust regulators and thermocouples. The Bobtail examination does not authorize an individual to connect or disconnect containers, except when performing a pressure test or removing a container from service.

(B) The Transport Driver examination qualifies an individual to operate an LP-gas transport equipped with a container of more than 5,000 gallons water capacity, to load and unload LP-gas, and connect and disconnect transfer hoses. The Transport Driver examination does not authorize an individual to operate a bobtail or to install or repair transport systems.

(C) The On-Road Motor Fuel Technician examination qualifies an individual to install LP-gas motor fuel containers, cylinders, and LP-gas motor fuel systems, and replace container valves on motorized vehicles licensed to operate on public roadways. The On-Road Motor Fuel Technician examination does not authorize an individual to fill LP-gas motor or mobile fuel containers.

(D) The Non-Road Motor Fuel Technician examination qualifies an individual to install LP-gas motor fuel containers, cylinders, and LP-gas motor fuel systems, and replace container valves on vehicles such as industrial forklift trucks and lawnmowers. The Non-Road Motor Fuel Technician examination does not authorize an individual to fill LP-gas motor fuel containers or cylinders.

(E) The Mobile Fuel Technician examination qualifies an individual to install LP-gas mobile fuel containers, cylinders, and LP-gas mobile fuel systems, and replace container valves on mobile fuel equipment such as trailers, catering trucks, mobile kitchens, tar kettles, hot oil units, auxiliary engines and similar equipment. The Mobile Fuel Technician examination does not authorize an individual to fill LP-gas mobile fuel containers or cylinders.

(F) The DOT Cylinder Filler examination qualifies an individual to inspect, requalify, fill, disconnect and connect cylinders, including industrial truck cylinders, and to exchange cylinder valves. The DOT Cylinder Filler examination does not authorize an individual to fill ASME motor or mobile fuel containers.

(G) The Recreational Vehicle Technician examination qualifies an individual to install LP-gas motor or mobile fuel containers, including cylinders, and to install and repair LP-gas systems on recreational vehicles. The Recreational Vehicle Technician examination does not authorize an individual to fill LP-gas containers.

(H) The Service and Installation Technician examination qualifies an individual to perform all LP-gas activities related to stationary LP-gas systems, including LP-gas containers, appliances, and stationary engines. The Service and Installation Technician examination does not authorize an individual to fill containers or operate an LP-gas transport.

(I) The Appliance Service and Installation Technician examination qualifies an individual to perform all LP-gas activities related to appliances, including installing, repairing and converting appliances, installing and repairing connectors from the appliance gas stop through the venting system, and to perform leak checks on the new or repaired portion of an LP-gas system. The Appliance Service and Installation Technician examination does not authorize an individual to install a container, install or repair piping upstream of and including the appliance gas stop, or to install, repair or adjust regulators.

(J) The Motor/Mobile Fuel Filler examination qualifies an individual to inspect and fill motor or mobile fuel containers on vehicles, including recreational vehicles, cars, trucks, and buses. The Motor/Mobile Fuel Filler examination does not authorize an individual to fill LP-gas cylinders or ASME stationary containers.

(2) Management-level examinations.

(A) The Category A examination qualifies an individual to assemble, repair, install, subframe, test, and sell both ASME and DOT containers and cylinders, including motor or mobile fuel containers and systems, and to repair and install transport and transfer systems.

(B) The Category A-1 examination qualifies an individual to assemble, repair, install, test, and sell ASME containers, including motor or mobile fuel containers and systems, and to repair and install transport and transfer

systems.

(C) The Category A-2 examination qualifies an individual to assemble, repair, install, subframe, test, and sell DOT cylinders.

(D) The Category B examination qualifies an individual to subframe, test, and sell transport containers: test LP-gas storage containers: install, test, and sell LP-gas motor or mobile fuel containers and systems; and install and repair transport systems and motor or mobile fuel systems.

(E) The Category C examination qualifies an individual to transport LP-gas in a transport equipped with one or more containers, load and unload LP-gas, and install and repair transport systems.

(F) The Category D examination qualifies an individual to sell, service, and install containers, and to service, install, and repair piping and appliances, excluding motor fuel containers, motor fuel systems, recreational vehicle containers, or recreational vehicle systems.

(G) The Category E examination qualifies an individual to store, sell, transport and distribute LP-gas and perform all other categories of licensed activities except the manufacture, fabrication, assembly, repair, subframing, and testing of LP-gas containers and the sale and installation of LP-gas motor or mobile fuel systems rated at more than 25 horsepower.

(H) The Category F examination qualifies an individual to operate a cylinder-filling facility, including cylinder filling, the sale of LP-gas in cylinders, and the replacement of cylinder valves.

(I) The Category G examination qualifies an individual to operate an LP-gas dispensing station to fill ASME motor or mobile fuel containers.

(J) The Category H examination qualifies an individual to transport and sell LP-gas in cylinders.

(K) The Category I examination qualifies an individual to operate a service station as set out in Category F and G.

(L) The Category J examination qualifies an individual to operate a service station as set out in Category I, transport cylinders as set out in Category H and install and connect DOT cylinders.

(M) The Category K examination qualifies an individual to sell and distribute LP-gas through mains or pipes, and to install and repair LP-gas systems.

(N) The Category L examination qualifies an individual to sell and install both LP-gas motor or mobile fuel containers and fuel systems on engines.

(O) The Category M examination qualifies an individual to sell, service, and install recreational vehicle containers, and to install, repair, and service recreational vehicle appliances, piping, and LP-gas systems, including recreational vehicle motor or mobile fuel systems and containers.

(P) The Category N examination qualifies an individual to service and install containers that supply fuel to manufactured housing, and to install, repair, and service appliances and piping systems for manufactured housing.

(Q) The Category O examination qualifies an individual to test LP-gas containers, motor or mobile fuel systems, transfer systems, and transport systems to determine the safety of the containers or systems for LP-gas service, including the necessary installation, disconnection, reconnection, testing, and repair of LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems involved in the testing of containers.

(R) The Category P examination qualifies an individual to operate a portable cylinder exchange service where LP-gas is sold in portable cylinders whose LP-gas capacity does not exceed 21 pounds, where the portable cylinders are not filled on site, and where no other LP-gas activity requiring a license is conducted.

(e) Within 15 calendar days of the date an individual takes an examination, AFS shall notify the individual of the results of the examination.

If the examination is graded or reviewed by a testing service, AFS shall notify the individual of the examination results within 14 days of the date AFS receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, AFS shall notify the individual of the reason for the delay before the 90th day. AFS may require a testing service to notify an individual of the individual's examination results.

(f) Failure of any examination shall immediately disqualify the individual from performing any LP-gas related activities covered by the examination which is failed, except for activities covered by a separate examination which the individual has passed.

(1) Any individual who fails an examination administered by the Commission at the Austin location may retake the same examination one additional time during a business day.

(2) Any subsequent examination shall be taken on another business day, unless approved by the AFS director.

(3) An individual who fails an examination may request an analysis of the individual's performance on the examination.

(g) The Commission shall not issue a certificate to an applicant for a management-level certificate that requires completion of a course of instruction until the applicant completes both the required course of instruction and passes the required management-level rules examination.

(h) An applicant for a management-level certificate shall pass the management-level rules examination within two years after completing a required course of instruction. An applicant who fails to pass such an examination within two years of completing such a course shall reapply as a new applicant.

§9.11. Transfer of Employees

(a) A licensee or ultimate consumer shall notify AFS when a certificate holder or individual with an examination exemption is hired by filing LPG Form 16A and a nonrefundable $10 fee with AFS, or in lieu of LPG Form 16A, submit the $10 fee and a written notice including:

(1) the employee's name as recorded with the Commission; and

(2) the last four digits of the employee's social security number.

(b) Upon approval of the documents submitted under subsection (a) of this section and verification of the individual's active status, AFS will send a copy of the certificate or exemption card to the new employer.

§9.12. Trainees

A licensee or ultimate consumer may employ an individual as a trainee for a period not to exceed 45 calendar days without that individual having successfully completed the rules examination as specified in §9.10 of this title (relating to Rules Examination) or registered as subject to the following conditions. The trainee shall be directly and individually supervised at all times by an individual who has successfully completed the Commission's rules examination for the areas of work being performed by the trainee.

(b) A trainee who successfully completes the rules examination shall comply with the training requirements for a new certificate in §9.51 and §9.52 of this title (relating to General Requirements for Training and Continuing Education; and Training and Continuing Education Courses).

(c) A trainee who fails the rules examination shall immediately cease to perform any LP-gas related activities covered by the examination failed.

(d) A trainee who has been in training for a total period of 45 calendar days, in any combination and with any number of employers, shall cease to perform any LP-gas activities for which he or she is not currently certified.

§9.13. General Installers and Repairman Exemption

(a) Any individual who is currently licensed as a master or journeyman plumber by the Texas State Board of Plumbing Examiners or who is currently licensed with a Class A or B Air Conditioning and Refrigeration Contractors License issued by the Texas Department of Licensing and Regulation may register with AFS and be granted an exemption to the Category D licensing and examination requirements (including insurance, and training and continuing education) provided the applicant:

(1) holds an active license in compliance with Texas Occupations Code, §1302.260, relating to Issuance and Term of License, and §1301.351, relating to License, Endorsement, or Registration Required;

(2) submits a legible copy of a current Air Conditioning and Refrigeration Contractor or Master or Journeyman Plumbers certificate;

(3) submits a legible copy of a picture state-issued identification card or driver's license;

(4) submits a properly completed LPG Form 16B; and

(5) pays the $50 registration fee.

(b) This exemption does not become effective until the exemption card is issued by AFS.

(c) The exemption accrues to the individual and is nontransferable.

(d) Any individual granted such exemption shall maintain registered status at all times. Upon failure to maintain registered status, the individual shall immediately cease all affected LP-gas activities until proper status has been regained.

(e) In order to maintain an exemption, each individual issued an exemption card must maintain a valid master or journeyman plumbers license or Class A or B Air Conditioning and Refrigeration Contractors license. Each individual shall also pay a $20 annual renewal fee to AFS on or before May 31 of each year. Failure to pay the annual renewal fee by May 31 shall result in a lapsed exemption. If an individual's exemption lapses, that individual shall cease all LP-gas activities until the exemption has been renewed. To renew a lapsed exemption, the applicant shall pay the $20 annual renewal fee plus a $20 late-filing fee. Failure to do so shall result in the expiration of the exemption. If an individual's exemption has been expired for more than two years, that individual shall complete all requirements necessary to apply for a new exemption.

(f) Any individual who is issued this exemption agrees to comply with the current edition of the rules in this chapter. In the event the exempt individual surrenders, fails to renew, or has the license revoked either by the Texas State Board of Plumbing Examiners or the Texas Department of Licensing and Regulation, that individual shall immediately cease performing any LP-gas activities granted by this section.

(g) A military service member, military veteran, or military spouse shall be exempt from the original registration fee pursuant to the requirements in §9.14 of this title (relating to Military Fee Exemption). An individual who receives a military fee exemption is not exempt from renewal fees specified in §9.9 of this title.

§9.14 Military Fee Exemption

(a) This section applies to military service members, military veterans, or military spouses, as those terms are defined in Texas Occupations Code, Chapter 55.

(b) The Commission shall waive license and examination fees for:

(1) a military service member or military veteran whose service, training, or education meets the Commission's licensing or certification requirements in this chapter; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction with licensing requirements substantially equivalent to the Commission's licensing requirements in this chapter.

(c) To receive a military fee exemption, an applicant for a fee exemption shall file with the Commission LPG Form 35 and any documentation required by this subsection.

(1) A military service member or military veteran whose service, training, or education meets the Commission's requirements for licensing or certification shall submit the following documentation with LPG Form 35:

(A) a copy of any military records showing the applicant's dates of service;

(B) a copy of the applicant's driver's license or state-issued identification card; and either

(C) any military service history for the applicant showing that LP-gas activities were performed, including a description of the types of LP-gas activities that were performed; or

(D) any military LP-gas training or education the applicant received, including a description of the types of LP-gas activities the training or education covered.

(2) A military service member or military veteran who holds a current license issued by another jurisdiction with licensing requirements substantially equivalent to the Commission's requirements in this chapter shall submit the following documentation with LPG Form 35:

(A) a copy of the license issued by the named jurisdiction;

(B) a description of the types of LP-gas activities that were performed under the license;

(C) a copy of any military records showing the applicant's dates of service; and

(D) a copy of the applicant's driver's license or state-issued identification card.

(3) A military spouse who holds a current license issued by another jurisdiction with licensing requirements substantially equivalent to the Commission's requirements in this chapter shall submit the following documentation with LPG Form 35:

(A) a copy of the license issued by the named jurisdiction;

(B) a description of the types of LP-gas activities that were performed under the license;

(C) a copy of the applicant's driver's license or state-issued identification card;

(D) a copy of the military service member's military records, including dates of service; and

(E) a copy of a valid marriage license between the applicant and the individual listed on the military records.

(d) The Commission shall review LPG Form 35 and required documentation to determine if the requirements for the fee exemption have been met and shall notify the applicant of the determination in writing within 30 days.

(1) If all requirements have been met, the applicant may submit the application for license or examination and attach a copy of the written notice granting military fee exemption with the application to serve as notice of payment.

(2) If the Commission has notified the applicant that the application is incomplete, the applicant shall provide any requested information or documentation within 30 days of the date of the notice.

(e) A military service member, military veteran, or military spouse who receives a military fee exemption is not exempt from, and may not use this section to circumvent, the requirements in this chapter to obtain a license or become certified by examination, including training requirements; license or certification renewal requirements, including training or continuing education courses or fees; or any transport registration requirements or fees.

§9.15. Penalty Guidelines for LP-Gas Safety Violations

(a) Policy. Improved safety and environmental protection are the desired outcomes of any enforcement action. Encouraging licensees, certificate holders, registered manufacturers, and other registrants to take appropriate voluntary corrective and future protective actions once a violation has occurred is an effective component of the enforcement process. Deterrence of violations through penalty assessments is also a necessary and effective component of the enforcement process. A rule-based enforcement penalty guideline to evaluate and rank LP-gas-related violations is consistent with the central goal of the Commission's enforcement efforts to promote compliance. Penalty guidelines set forth in this section will provide a framework for more uniform and equitable assessment of penalties throughout the state, while also enhancing the integrity of the Commission's enforcement program.

(b) Guidelines. This section complies with the requirements of Texas Natural Resources Code, §81.0531. The penalty amounts contained in the tables in this section are provided solely as guidelines to be considered by the Commission in determining the amount of administrative penalties for violations of provisions of Texas Natural Resources Code, Chapter 113; of rules, orders, licenses, registrations, permits, or certificates relating to LP-gas safety adopted under those provisions; and of regulations, codes, or standards that the Commission has adopted by reference.

(c) Commission authority. The establishment of these penalty guidelines shall in no way limit the Commission's authority and discretion to assess administrative penalties. The typical minimum penalties listed in this section are for the most common violations cited; however, this is neither an exclusive nor an exhaustive list of violations that the Commission may cite. The Commission retains full authority and discretion to cite violations of Texas Natural Resources Code, Chapter 113; of rules, orders, licenses, registrations, permits, or certificates relating to LP-gas safety adopted or issued under those provisions; and of regulations, codes, or standards that the Commission has adopted by reference, and to assess administrative penalties in any amount up to the statutory maximum when warranted by the facts in any case, regardless of inclusion in or omission from this section.

(d) Factors considered. The amount of any penalty requested, recommended, or finally assessed in an enforcement action will be determined on an individual case-by-case basis for each violation, taking into consideration the following factors:

(1) the person's history of previous violations;

(2) the seriousness of the previous violations;

(3) any hazard to the health or safety of the public; and

(4) the demonstrated good faith of the person charged.

(e) Typical penalties. Regardless of the method by which the typical penalty amount is calculated, the total penalty amount will be within the statutory limit. Typical penalties for violations of provisions of Texas Natural Resources Code, Chapter 113; of rules, orders, licenses, registrations, permits, or certificates relating to LP-gas safety adopted under those provisions; and of regulations, codes, or standards that the Commission has adopted by reference, are set forth in Table 1.

Figure: 16 TAC §9.15(e)
TABLE 1. LP-Gas Penalty Schedule Guideline

LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range
Tex. Nat. Res. Code, Chapter 113	Any violation of Chapter 113, Texas Natural Resources Code	$1,000-2,500
16 TAC §9.4(a)	Retention of records	$500
16 TAC §9.4(d)	Licensee and registrant obligations	$2,500
16 TAC §9.7(a)	Performing LP-gas activities without proper certification and/or license	$500
16 TAC §9.7(d)	Copies of licenses and/or certifications	$100
16 TAC §9.7(g)	Company representative and/or branch manager	$500
16 TAC §9.7(h)	Performing container manufacturing activities without proper registration	$500
16 TAC §9.7(i)	License renewals and manufacturer registration lapse, 1-2 months	$500
16 TAC §9.7(i)	License renewals and manufacturer registration lapse, 3-4 months	$750
16 TAC §9.7(i)	License renewals and manufacturer registration lapse, 5-6 months	$1,000
16 TAC §9.7(i)	License renewals and manufacturer registration lapse, more than 6 months	$1,000-2,500
16 TAC §9.9	Requirements for certificate renewal	$250
16 TAC §9.11	Employee transfers	$100
16 TAC §9.12	Trainees	$500-1,000
16 TAC §9.13	General installers and repairman exception	$500-1,000
16 TAC §9.17	Designation and responsibilities of company reps	$500
16 TAC §9.21	Franchise tax certification and assumed name certificates	$500
16 TAC §9.22	Changes in ownership, form or name of dealership	$500
16 TAC §9.23	Limitation/avoidance of licensee liability	$2,500

LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range
16 TAC §9.26	Insurance and self-insurance requirements	$1,000
16 TAC §9.28	Reasonable safety provisions	$2,500
16 TAC §9.32	Consumer safety notification	$500
16 TAC §9.35	Written procedure for leak check	$100-500
16 TAC §9.36(a)	Report of an LP-gas incident/accident	$1,000
16 TAC §9.36(c)	Completed Form 20	$100
16 TAC §9.36(e)	Category P must notify supplier of incident	$250
16 TAC §9.41	Testing LP-gas systems in school facilities	$1,000
16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), 1-5 occurrences	$100
16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), 6-10 occurrences	$200
16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), >10 occurrences	$500
16 TAC §9.101(c)	Filings for stationary installations Form 500 (>= 10,000 gal AWC)	$1,000
16 TAC §9.109	Physical inspection of stationary installation	$250-1,000
16 TAC §9.113	Maintenance	$250-1,000
16 TAC §9.114(a)	Odorization in accordance with NFPA 58	$500-2,500
16 TAC §9.126(a)-(b)	All appurtenances and equipment shall be listed	$1,000
16 TAC §9.126(c)	Licensee or operator of equipment not listed but approved for use by manufacturer shall maintain documentation	$250
16 TAC §9.129	Manufacturer's nameplate and markings	$1,000
16 TAC §9.131	200 PSIG working pressure stationary vessels	$500-1,000

LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range
16 TAC §9.132	Sales to unlicensed individuals	$1,000
16 TAC §9.134	Connecting container to piping	$250-1,000
16 TAC §9.135	Unsafe or unapproved containers, cylinders or piping	$500-2,500
16 TAC §9.136	Filling DOT containers	$500-2,500
16 TAC §9.137	Inspection of containers at each filling	$500
16 TAC §9.140	Uniform protection standards	$100-750
16 TAC §9.141	Uniform safety requirements	$100-750
16 TAC §9.142	LP-gas storage and installation requirements	$100-500
16 TAC §9.143	Bulkhead, internal valve, ball valve and ESV protection	$500-2,500
16 TAC §9.201	Applicability (includes 49 CFR 100-185)	$500-2,500
16 TAC §9.202	Registration and transfer of LP-gas transports	$500-1,500
16 TAC §9.203	School bus, public transportation, mass and special transit	$100-500
16 TAC §9.204	Maintenance of vehicles	$250-1,000
16 TAC §9.206	Vehicle identification labels	$50-100
16 TAC §9.208	Testing requirements	$250-1,000
16 TAC §9.211	Markings	$250
16 TAC §9.212	Manifests	$250
16 TAC §9.301	NFPA 54 adopted by reference unless otherwise listed	$250-2,500
16 TAC §9.301	NFPA 54 Section 7.1.2.1 underground piping cover requirements	$250-750
16 TAC §9.301	NFPA 54 Section 7.1.7.1 connection of plastic piping	$500-1,000
16 TAC §9.301	NFPA 54 Section 7.1.7.3 tracer wire	$100-500

LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range
16 TAC §9.301	NFPA 54 Section 7.7.2.1 cap all outlets	$100-500
16 TAC §9.301	NFPA 54 Section 8.2.3 test for leakage	$1,500
16 TAC §9.301	NFPA 54 Section 9.1.1.2 appliance installation	$500-1,000
16 TAC §9.301	NFPA 54 Section 9.6.8 sediment trap	$100-500
16 TAC §9.301	NFPA 54 Section 12.2.1 venting of appliances	$500-1,000
16 TAC §9.306	Room heaters in public buildings	$250-1,000
16 TAC §9.307	Identification of converted appliances	$100-250
16 TAC §9.308	Identification of piping installation	$100-250
16 TAC §9.311	Special exceptions for appliance connectors and piping support on agricultural and industrial structures	$100-500
16 TAC §9.312	Certification requirements for joining methods	$500
16 TAC §9.401	NFPA 58 adopted by reference unless otherwise listed	$250-2,500
16 TAC §9.401	NFPA 58 Section 6.4.1.1 (distance from container), first occurrence	$500
16 TAC §9.401	NFPA 58 Section 6.4.1.1 (distance from container), 2nd occurrence	$750
16 TAC §9.401	NFPA 58 Section 6.4.1.1 (distance from container), 3 or more occurrences	$1,000
16 TAC §9.401	NFPA 58 Section 5.2.2.3 and 11.3.1.5 (requalification of cylinders), 1-10 cylinders	$500
16 TAC §9.401	NFPA 58 Section 5.2.2.3 and 11.3.1.5 (requalification of cylinders), 11-20 cylinders	$750
16 TAC §9.401	NFPA 58 Section 5.2.2.3 and 11.3.1.5 (requalification of cylinders), >20 cylinders	$1,000
16 TAC §9.401	NFPA 58 Section 9.4.8 (chock blocks)	$100-250

LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range
16 TAC §9.403	Sections in NFPA 58 not adopted by reference or adopted with change or additional requirements	$250-2,500

(f) Penalty enhancements for certain violations. For violations that involve threatened or actual safety hazards, or that result from the reckless or intentional conduct of the person charged, the Commission may assess an enhancement of the typical penalty. The enhancement may be in any amount in the range shown for each type of violation, as shown in Table 2.

Figure: 16 TAC §9.15(f)
Table 2. LP-Gas Penalty Enhancements

For violations that involve:	Threatened or actual safety hazard	Severity of violation or culpability of person charged
Death or personal injury	$5,000 to $20,000	
Taking facility out of service	$1,000 to $5,000	
Gas ignition or release requiring emergency response	$1,000 to $15,000	
Damage to LP-gas installation or vehicle	$1,000 to $5,000	
Property damage exceeding $5,000	$1,000 to $15,000	
Rerouting of traffic or evacuation of premises	$1,000 to $5,000	
Time out of compliance		$100 to $2,000 for each month
Reckless conduct of person charged		Up to double the total penalty
Intentional conduct of person charged		Up to triple the total penalty

(g) Penalty enhancements for certain violators. For violations in which the person charged has a history of prior violations within seven years of the current enforcement action, the Commission may assess an enhancement based on either the number of prior violations or the total amount of previous administrative penalties, but not both. The actual amount of any penalty enhancement will be determined on an individual case-by-case basis for each violation. The guidelines in Tables 3 and 4 are intended to be used separately. Either guideline may be used where applicable, but not both.

Figure 1: 16 TAC §9.15(g)
Table 3. Penalty enhancements based on number of prior violations within seven years

Number of violations in the seven years prior to action	Enhancement amount
One	$1,000
Two	$2,000
Three	$3,000
Four	$4,000
Five or more	$5,000

Figure 2: 16 TAC §9.15(g)
Table 4. Penalty enhancements based on total amount of prior penalties within seven years

Total administrative penalties assessed in the seven years prior to action	Enhancement amount
Less than $10,000	$1,000
Between $10,000 and $25,000	$2,500
Between $25,000 and $50,000	$5,000
Between $50,000 and $100,000	$10,000
Over $100,000	10% of total amount

(h) Penalty reduction for settlement before hearing. The recommended monetary penalty for a violation may be reduced by up to 50% if the person charged agrees to a settlement before the Commission conducts an administrative hearing to prosecute a violation. Once the hearing is convened, the opportunity for the person charged to reduce the basic monetary penalty is no longer available. The reduction applies to the basic penalty amount requested and not to any requested enhancements.

(i) Demonstrated good faith. In determining the total amount of any monetary penalty requested, recommended, or finally assessed in an enforcement action, the Commission may consider, on an individual case-by-case basis for each violation, the demonstrated good faith of the person charged. Demonstrated good faith includes, but is not limited to, actions taken by the person charged before the filing of an enforcement action to remedy, in whole or in part, a violation or to mitigate the consequences of a violation.

(j) Other sanctions. Depending upon the nature of and the consequences resulting from a violation of the rules in this chapter, the Commission may impose a non-monetary penalty, such as requiring attendance at a safety training course, or may issue a warning.

(k) Penalty calculation worksheet. The penalty calculation worksheet shown in Table 5 lists the typical penalty amounts for certain violations, the circumstances justifying enhancements of a penalty and the amount of the enhancement, and the circumstances justifying a reduction in a penalty and the amount of the reduction.

Figure: 16 TAC §9.15(k)
TABLE 5. LP-Gas Penalty Worksheet

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range	Penalty Tally
1	Tex. Nat. Res. Code, Chapter 113	Any violation of Chapter 113, Texas Natural Resources Code	$1,000-2,500	$
2	16 TAC §9.4(a)	Retention of records	$500	$
3	16 TAC §9.4(d)	Licensee and registrant obligations	$2,500	$

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range	Penalty Tally
4	16 TAC §9.7(a)	Performing LP-gas activities without proper certification and/or license	$500	$
5	16 TAC §9.7(d)	Copies of licenses and/or certifications	$100	$
6	16 TAC §9.7(g)	Company representative and/or branch manager	$500	$
7	16 TAC §9.7(h)	Performing container manufacturing activities without proper registrations	$500	$
8	16 TAC §9.7(i)	License renewals and manufacturer registration lapse, 1-2 months	$500	$
9	16 TAC §9.7(i)	License renewals and manufacturer registration lapse, 3-4 months	$750	$
10	16 TAC §9.7(i)	License renewals and manufacturer registration lapse, 5-6 months	$1,000	$
11	16 TAC §9.7(i)	License renewals and manufacturer registration lapse, more than 6 months	$1,000-2,500	$
12	16 TAC §9.9	Requirements for certificate renewal	$250	$
13	16 TAC §9.11	Employee transfers	$100	$
14	16 TAC §9.12	Trainees	$500-$1,000	$
15	16 TAC §9.13	General installers and repairman exception	$500-1,000	$
16	16 TAC §9.17	Designation and responsibilities of company reps	$500	$
17	16 TAC §9.21	Franchise tax certification and assumed name certificates	$500	$
18	16 TAC §9.22	Changes in ownership, form or name of dealership	$500	$
19	16 TAC §9.23	Limitation/avoidance of licensee liability	$2,500	$
20	16 TAC §9.26	Insurance and self-insurance requirements	$1,000	$

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range	Penalty Tally
21	16 TAC §9.28	Reasonable safety provisions	$2,500	$
22	16 TAC §9.32	Consumer safety notification	$500	$
23	16 TAC §9.35	Written procedure for leak check	$100-500	$
24	16 TAC §9.36(a)	Report of an LP-gas incident/accident	$1,000	$
25	16 TAC §9.36(c)	Completed Form 20	$100	$
26	16 TAC §9.36(e)	Category P must notify supplier of incident	$250	$
27	16 TAC §9.41	Testing LP-gas systems in school facilities	$1,000	$
28	16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), 1-5 occurrences	$100	$
29	16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), 6-10 occurrences	$200	$
30	16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), >10 occurrences	$500	$
31	16 TAC §9.101(c)	Filings for stationary installations Form 500 (>= 10,000 gal AWC)	$1,000	$
32	16 TAC §9.109	Physical inspection of stationary installation	$250-1,000	$
33	16 TAC §9.113	Maintenance	$250-1,000	$
34	16 TAC §9.114(a)	Odorization in accordance with NFPA 58	$500-2,500	$
35	16 TAC §9.126(a)-(b)	All appurtenances and equipment shall be listed	$1,000	$
36	16 TAC §9.126(c)	Licensee or operator of equipment not listed but approved for use by manufacturer shall maintain documentation	$250	$
37	16 TAC §9.129	Manufacturer's nameplate and markings	$1,000	$

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range	Penalty Tally
38	16 TAC §9.131	200 PSIG working pressure stationary vessels	$500-1,000	$
39	16 TAC §9.132	Sales to unlicensed individuals	$1,000	$
40	16 TAC §9.134	Connecting container to piping	$250-1,000	$
41	16 TAC §9.135	Unsafe or unapproved containers, cylinders or piping	$500-2,500	$
42	16 TAC §9.136	Filling DOT containers	$500-2,500	$
43	16 TAC §9.137	Inspection of containers at each filling	$500	$
44	16 TAC §9.140	Uniform protection standards	$100-750	$
45	16 TAC §9.141	Uniform safety requirements	$100-750	$
46	16 TAC §9.142	LP-gas storage and installation requirements	$100-500	$
47	16 TAC §9.143	Bulkhead, internal valve, ball valve and ESV protection	$500-2,500	$
48	16 TAC §9.201	Applicability (includes 49 CFR 100-185)	$500-2,500	$
49	16 TAC §9.202	Registration and transfer of LP-gas transports	$500-1,500	$
50	16 TAC §9.203	School bus, public transportation, mass and special transit	$100-500	$
51	16 TAC §9.204	Maintenance of vehicles	$250-1,000	$
52	16 TAC §9.206	Vehicle identification labels	$50-100	$
53	16 TAC §9.208	Testing requirements	$250-1,000	$
54	16 TAC §9.211	Markings	$250	$
55	16 TAC §9.212	Manifests	$250	$
56	16 TAC §9.301	NFPA 54 adopted by reference unless otherwise listed	$250-2,500	$

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range	Penalty Tally
57	16 TAC §9.301	NFPA 54 Section 7.1.2.1 underground piping cover requirements	$250-750	$
58	16 TAC §9.301	NFPA 54 Section 7.1.7.1 connection of plastic piping	$500-1,000	$
59	16 TAC §9.301	NFPA 54 Section 7.1.7.3 tracer wire	$100-500	$
60	16 TAC §9.301	NFPA 54 Section 7.7.2.1 cap all outlets	$100-500	$
61	16 TAC §9.301	NFPA 54 Section 8.2.3 test for leakage	$1,500	$
62	16 TAC §9.301	NFPA 54 Section 9.1.1.2 appliance installation	$500-1,000	$
63	16 TAC §9.301	NFPA 54 Section 9.6.8 sediment trap	$100-500	$
64	16 TAC §9.301	NFPA 54 Section 12.2.1 venting of appliances	$500-1,000	$
65	16 TAC §9.306	Room heaters in public buildings	$250-1,000	$
66	16 TAC §9.307	Identification of converted appliances	$100-250	$
67	16 TAC §9.308	Identification of piping installation	$100-250	$
68	16 TAC §9.311	Special exceptions for appliance connectors and piping support on agricultural and industrial structures	$100-500	$
69	16 TAC §9.312	Certification requirements for joining methods	$500	$
70	16 TAC §9.401	NFPA 58 adopted by reference unless otherwise listed	$250-2,500	$
71	16 TAC §9.401	NFPA 58 Section 6.4.1.1 (distance from container), first occurrence	$500	$
72	16 TAC §9.401	NFPA 58 Section 6.4.1.1 (distance from container), 2nd occurrence	$750	$
73	16 TAC §9.401	NFPA 58 Section 6.4.1.1 (distance from container), 3 or more occurrences	$1,000	$

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range	Penalty Tally
74	16 TAC §9.401	NFPA 58 Section 5.2.2.3 and 11.3.1.5 (requalification of cylinders), 1-10 cylinders	$500	$
75	16 TAC §9.401	NFPA 58 Section 5.2.2.3 and 11.3.1.5 (requalification of cylinders), 11-20 cylinders	$750	$
76	16 TAC §9.401	NFPA 58 Section 5.2.2.3 and 11.3.1.5 (requalification of cylinders), >20 cylinders	$1,000	$
77	16 TAC §9.401	NFPA 58 Section 9.4.8 (chock blocks)	$100-250	$
78	16 TAC §9.403	Sections in NFPA 58 not adopted by reference or adopted with change or additional requirements	$250-2,500	$
79	**Subtotal of typical penalty amounts from Table 1 (lines 1-78, inclusive)**			$
80	**Reduction for settlement before hearing: up to 50% of line 79 amt.**		**_____%**	$
81	**Subtotal: amount shown on line 79 less applicable settlement reduction on line 80**			$
	Penalty enhancement amounts for threatened or actual safety hazard from Table 2			
82	Death or personal injury		$5,000 to $20,000	$
83	Taking facility out of service		$1,000 to $5,000	$
84	Gas ignition or release requiring emergency response		$1,000 to $15,000	$
85	Damage to LP-gas installation or vehicle		$1,000 to $5,000	$
86	Property damage exceeding $5,000		$1,000 to $15,000	$
87	Rerouting of traffic or evacuation of premises		$1,000 to $5,000	$
	Penalty enhancement for severity of violation from Table 2			

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range	Penalty Tally
88	Time out of compliance		$100 to $2,000/ mo.	$
89	**Subtotal: amount shown on line 81 plus all amounts on lines 82 through 88, inclusive**			$
	Penalty enhancements for culpability of person charged from Table 2			
90	Reckless conduct of person charged		Up to double line 81	$
91	Intentional conduct of person charged		Up to triple line 81	$
	Penalty enhancements for number of prior violations within past seven years from Table 3			
92	One		$1,000	$
93	Two		$2,000	$
94	Three		$3,000	$
95	Four		$4,000	$
96	Five or more		$5,000	$
	Penalty enhancements for amount of penalties within past seven years from Table 4			
97	Less than $10,000		$1,000	$
98	Between $10,000 and $25,000		$2,500	$
99	Between $25,000 and $50,000		$5,000	$
100	Between $50,000 and $100,000		$10,000	$
101	Over $100,000		10% of total amount	$
102	**Subtotal: Line 89 amt. plus amts. on line 90 through 101, inclusive**			$

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/ Range	Penalty Tally
103	**Reduction for demonstrated good faith of person charged**			$
104	**TOTAL PENALTY AMOUNT: amount on line 102 less any amount shown on line 103**			$

§9.16. Hearings for Denial, Suspension, or Revocation of Licenses or Certificates

(a) The Commission may deny, suspend, or revoke a license, registration, or certificate for any person who fails to comply with the rules in this chapter.

(1) If AFS determines that an applicant for license, manufacturer registration, certificate, or renewal has not met the requirements of the rules in this chapter, AFS shall notify the applicant in writing of the reasons for the proposed denial. In the case of an applicant for license, manufacturer registration, or certificate, the notice shall advise the person that the application may be resubmitted within 30 calendar days of receipt of the denial with all cited deficiencies corrected, or, if the person disagrees with AFS' determination, that person may request in writing a hearing on the matter within 30 calendar days of receipt of the notice of denial.

(2) If a person resubmits the application within 30 calendar days of receipt of the denial with all deficiencies corrected, AFS shall issue the license, manufacturer registration, certificate, or renewal as applicable.

(b) Hearing regarding denial of license, manufacturer registration, certificate or associated renewals.

(1) An applicant receiving a notice of denial may request a hearing to determine whether the applicant did comply in all respects with the requirements for the category license, registration, or certificate sought. The request for hearing shall be in writing, shall refer to the specific requirements the applicant claims were met, and shall be submitted to AFS within 30 calendar days of the applicant's receipt of the notification of denial.

(2) Upon receipt of a request complying with paragraph (1) of this subsection, AFS shall forward the request for a hearing to the Hearings Division for the purpose of scheduling a hearing within 30 calendar days following the receipt of the request for hearing to determine the applicant's compliance or noncompliance with applicable requirements.

(3) If, after hearing, the Commission finds the applicant's claim has been supported, the Commission may issue an order approving the license, manufacturer registration, or certificate and AFS shall issue the license, manufacturer registration, certificate, or associated renewal if applicable.

(4) If, after hearing, the Commission finds that the applicant does not comply with the requirements of this chapter, the Commission may issue an order denying the application or renewal.

(c) Suspension or revocation of licenses, manufacturer registrations, or certificates.

(1) If AFS finds by means including but not limited to inspection, review of required documents submitted, or complaint by a member of the general public or any other person, a probable or actual violation of or noncompliance with the Texas Natural Resources Code, Chapter 113, or the rules in this chapter, AFS shall notify the licensee, registered manufacturer, or certificate holder of the alleged violation or noncompliance in writing.

(2) The notice shall specify the acts, omissions, or conduct constituting the alleged violation or noncompliance and shall designate a date not less than 30 calendar days or more than 45 calendar days after the licensee, registered manufacturer, or certificate holder receives the notice by which the violation or noncompliance shall be corrected or discontinued. If AFS determines the violation or noncompliance may pose imminent peril to the health, safety, or welfare of the general public, AFS may notify the licensee, registered manufacturer or certificate holder orally with instruction to immediately cease the violation or noncompliance. When oral notice is given, AFS shall follow it with written notification no later than five business days after the oral notification.

(3) The licensee, registered manufacturer, or certificate holder shall either report the correction or discontinuance of the violation or noncompliance within the time frame specified in the notice or shall request an extension of time in which to comply. The request for extension of the time to comply shall be received by LP-Gas Operations within the same time frame specified in the notice for correction or discontinuance.

(d) Hearing regarding suspension or revocation of licenses, manufacturer registrations, and certificates.

If a licensee, registered manufacturer, or certificate holder disagrees with the determination of AFS under this section, that person may request a public hearing on the matter to be conducted as specified in Chapter 1 of this title (relating to Practice and Procedure). The request shall be in writing, shall refer to the specific rules or statutes the person claims to have complied with, and shall be received by AFS within 30 calendar days of the person's receipt of the notice of violation or noncompliance. AFS shall forward the request for hearing to the Hearings Division.

§9.17. Designation and Responsibilities of Company Representatives and Operations Supervisors

(a) Each licensee shall have at least one company representative for the license and, in the case of a licensee other than a Category P licensee, at least one operations supervisor for each outlet.

(1) A licensee maintaining one or more outlets shall file LPG Form 1 with AFS listing the physical location of the first outlet and designating the company representative for the license and LPG Form 1A designating the physical location and operations supervisor for each additional outlet.

(2) A licensee may have more than one company representative.

(3) An individual may be operations supervisor at more than one outlet provided that :

(A) each outlet has a designated LP-gas certified employee responsible for the LP-gas activities at that outlet;

(B) the certified employee's and/or operations supervisor's telephone number is posted at the outlet on a sign with lettering at least 3/4-inch high, visible and legible during regular business hours; and

(C) the certified employee and/or the operations supervisor monitors the telephone number and responds to calls during normal business hours.

(4) The company representative may also serve as operations supervisor for one of the licensee's outlets provided that the individual meets both the company representative and the operations supervisor requirements in this section.

(5) A licensee shall immediately notify AFS in writing upon conclusion of employment, for whatever reason, of its company representative or any operations supervisor and shall at the same time designate a replacement.

(6) A licensee shall cease all LP-gas activities if it no longer employs a qualified company representative who complies with the Commission's requirements. A licensee shall not resume LP-gas activities until such time as it has a properly qualified company representative or it has been granted a conditional qualification as specified in subsection (e) of this section.

(7) A licensee shall cease LP-gas activities at an outlet if it no longer employs a qualified operations supervisor at that outlet who complies with the Commission's requirements. A licensee shall not resume LP-gas activities at that outlet until such time as it has a properly qualified operations supervisor or it has been granted a conditional qualification as specified in subsection (e) of this section.

(b) Company representative. A company representative shall:

(1) be an owner or employee of the licensed entity, in the case of a licensee other than a Category P licensee;

(2) be the licensee's principal individual in authority and, in the case of a licensee other than a Category P licensee, be responsible for actively supervising all LP-gas activities conducted by the licensee, including all appliance, container, portable cylinder, product, and system activities;

(3) have a working knowledge of the licensee's LP-gas activities to ensure compliance with the rules in this chapter and the Commission's administrative requirements;

(4) pass the appropriate management-level rules examination, or in the case of an applicant for a Category D license, obtain an exemption as specified in §9.13 of this title (relating to General Installers and Repairman Exemption);

(5) complete any required training and/or continuing education required in §9.51 and §9.52 of this title (relating to General Requirements for LP-Gas Training and Continuing Education, and Training and Continuing Education, respectively);

(6) comply with the work experience or training requirements in subsection (e) of this section, if applicable;

(7) be directly responsible for all employees performing their assigned LP-gas activities, unless an operations supervisor is fulfilling this requirement; and

(8) submit any additional information as deemed necessary by AFS.

(c) Operations supervisors. An operations supervisor, in the case of a licensee other than a Category P licensee, shall:

(1) be an owner or employee of the licensee;

(2) pass the applicable management-level rules examination or, in the case of a Category D license only, obtain an exemption as specified in §9.13 of this title;

(3) complete any required training and/or continuing education required in §9.51 and §9.52 of this title; and

(4) be directly responsible for actively supervising the LP-gas activities of the licensee at the designated outlet.

(d) Category P licensees.

(1) The company representative requirement for a Category P licensee may be satisfied by employing a Category E or J company representative if the Category E or J company representative is authorized by the Category P licensee to remove any employee who does not comply with the rules in this chapter or who performs unsafe LP-gas activities.

(2) In lieu of an operations supervisor requirement for a Category P license, the Category E or J licensee providing the Category P licensee with portable cylinders for exchange shall be required to:

(A) prepare a manual containing, at a minimum, the following:

(i) a description of the basic characteristics and properties of LP-gas;

(ii) an explanation of the various parts of an LP-gas cylinder, including what the purpose of each part is and how to operate the cylinder valve;

(iii) complete instructions on how to properly transport cylinders in vehicles;

(iv) a prohibition against moving or installing cylinder cages at any store location;

(v) a prohibition against taking or storing inside a building any cylinders that have or have had LP-gas in them;

(vi) a requirement that all cylinders containing LP-gas be stored in a manner so that the relief valve is in the vapor space of the cylinder;

(vii) a requirement that the employees who handle the cylinders know the location within the store of the manual and know the contents of the manual;

(viii) instructions related to any potential hazards that may be specific to a location, including but not limited to the proper distancing of cylinders from combustible materials and sources of ignition;

(ix) detailed emergency procedures regarding a leaking cylinder, including all applicable emergency contact numbers;

(x) a requirement that any accidents be reported to the Category E or J licensee who prepares the manual, and detailed procedures for reporting any accidents;

(xi) all Commission rules applicable to the Category P license, including the requirement that the Category P licensee is responsible for complying with all such rules;

(xii) all provisions of Subchapter H (“Enforcement”) of Chapter 113 of the Texas Natural Resources Code;

(xiii) a detailed description of the training provided to each employee of the Category P licensee who may be engaged in any activities covered by the Category P license; and

(xiv) a page for the signatures, printed names and dates of training for each individual trained at each outlet on this manual.

(B) provide a manual in print or electronic format at each outlet or location of the Category P licensee; and

(C) provide training as to the contents of the manual to each employee who may be engaged in any activities covered by the Category P license at all outlets or locations of the Category P licensee and maintain records regarding the employees of the Category P licensee who have been trained.

(3) The Category P licensee shall:

(A) ensure that each employee who is involved with the activities covered by the Category P license is knowledgeable about the contents of the manual and has signed and dated the signature page of the manual; and

(B) ensure that each such employee is aware of the location of the manual and can show the manual to employees of the Commission upon request.

(e) Work experience substitution for Category E, F, G, I, and J.

(1) The AFS director may, upon written request, allow a conditional qualification for a Category E, F, G, I, or J company representative or operations supervisor who passes the applicable management-level rules examination provided that the individual attends and successfully completes the next available Category E, F, G, I, or J management-level training course, or a subsequent Category E, F, G, I, or J management-level training course agreed on by the AFS director and the applicant.

(A) The written request shall include a description of the individual's LP-gas experience and other related information in order that the AFS director may properly evaluate the request.

(B) Applicants for company representative or operations supervisor who have less than three years' experience or experience which is not applicable to the category for which the individual is applying shall not be granted a conditional qualification and shall comply with the training requirements in §9.52 of this title prior to AFS issuing a certificate.

(2) If the individual fails to complete the training requirements within the time granted by the AFS director, the conditional qualification shall immediately be voided and the individual shall immediately cease all LP-gas activities granted by the conditional qualification.

§9.18. Reciprocal Examination Agreements with Other States

(a) AFS may accept the examination requirements for LP-gas transport drivers from other states provided that the qualifying state has entered into a reciprocal agreement with Texas as specified in this section.

(b) A state that is interested in a reciprocal agreement with Texas shall provide a copy of its examination used to qualify

transport drivers to AFS. AFS shall provide a copy of the Texas examination to the other state's LP-gas authority. The states shall review the materials to ensure that they contain substantially equivalent requirements. If each state accepts the requirements of the other state, both states shall sign the reciprocal agreement.

(1) The reciprocal agreement shall be in the form of a letter on the official letterhead of the state requesting the reciprocal agreement. The letter shall be signed and dated by an official representative of the LP-gas authority in both states. For Texas, the official representative shall be the AFS director.

(2) The reciprocal agreement shall remain in effect until either state requests a change and may be terminated by either state at any time.

(3) If either state revises its examination or related requirements, it shall immediately notify the other state by submitting the revised examination or related requirements.

(4) AFS shall maintain a current list of all states participating in reciprocal agreements, a list of participating states' applicable fees, and a list of all individuals who have received a reciprocal examination exemption.

(5) Copies of examinations from other participating states are subject to or excepted from required disclosure in accordance with Chapter 552 of the Government Code.

(c) Individuals who apply for a reciprocal examination exemption shall pay the applicable fees required by each state in exchange for exemption from examination requirements.

(1) Individuals from other participating states shall remit to AFS:
(A) the nonrefundable employee-level rules examination fee; and
(B) the annual certificate renewal fee specified in §9.10 and §9.9 of this title (relating to Rules Examination, and Requirements for Certificate Renewal, respectively).

(2) Individuals from Texas who apply for a reciprocal examination exemption in other states shall pay to the other state any fees specified by that state.

(d) Applicants for a reciprocal examination exemption shall provide the following information to AFS to verify that they are properly and currently certified in their state:

(1) a state-issued certification card, license, letter, or similar document which shall clearly show a valid date and an indication that the individual passed the examination. Maintaining valid certification in the other state is required for continuing reciprocity in Texas;

(2) a completed LPG Form 16R. Applicants from other states shall provide their Social Security numbers to AFS for purposes of record-keeping and to comply with the requirements in Texas Family Code Annotated §231.302(c) (Vernon 1996), which mandates disclosure of Social Security numbers by applicants to assist in the administration of laws relating to child support. Social Security numbers are subject to or excepted from disclosure to the public in accordance with Texas Government Code, Chapter 552; and

(3) a copy of the applicant's valid driver's license.

(e) Individuals from other states who apply for a reciprocal examination exemption from Texas either shall be employed by a company that is properly and currently licensed in Texas or shall themselves fulfill all other licensing requirements in

the rules in this chapter.

(f) Individuals who obtain reciprocal examination exemptions are liable under the laws and rules of the state in which they perform the LP-gas activities.

(1) Each state shall be responsible for its own enforcement actions against individuals with reciprocal examination exemptions.

(2) If a participating state has an enforcement action against an individual with a reciprocal examination exemption, that state shall inform the other state within 14 calendar days of initiating the action.

(3) A state may suspend, revoke, or deny a reciprocity renewal or an individual's reciprocal examination exemption, as specified in §9.16 of this title (relating to Hearings for Denial, Suspension, or Revocation of Licenses, Manufacturer Registrations, or Certificates) and shall notify the other state and all individuals holding the reciprocal examination exemption within 14 calendar days of such suspension, revocation, or denial.

(g) Upon the effective date of this section, AFS may issue reciprocal examination exemptions only for LP-gas transport driver examinations. For purposes of reciprocal agreements, a "transport" is defined as a cargo tank motor vehicle of more than 5,000 gallons water capacity.

§9.21. Franchise Tax Certification and Assumed Name Certificates

(a) An applicant for an original or renewal license or registered manufacturer that is a corporation, limited partnership, or limited liability company shall be approved to transact business in Texas by the Texas Comptroller of Public Accounts. The licensee or registered manufacturer shall provide a copy of the current Certificate of Account Status from the Texas Comptroller of Public Accounts.

(b) All applicants for license or manufacturer registration, or their corresponding renewals, shall list on LPG Form 1 or LPG Form 1M all names under which LP-gas related activities requiring licensing or registration as a container manufacturer are to be conducted. Any company performing LP-gas activities under an assumed name ("DBA" or "doing business as") shall file with AFS copies of the assumed name certificates which are required to be filed with the respective county clerk's office and/or the Secretary of State's Office.

§9.22. Changes in Ownership, Form of Dealership, or Name of Dealership

(a) Changes in ownership which require a new license or manufacturer registration.

(1) Transfer of dealership or outlet by sale, lease, or gift. The purchaser, lessee, or donee of any dealership or outlet shall have a current and valid license or manufacturer registration authorizing the LP-gas activities to be performed at the dealership or outlet or shall apply for and be issued an LP-gas license or manufacturer registration prior to engaging in any LP-gas activities which require a license or manufacturer registration. The purchaser, lessee, or donee shall notify AFS by filing a properly completed LPG Form 1 or LPG Form 1M prior to engaging in any LP-gas activities at that dealership or outlet which require an LP-gas license or manufacturer registration, respectively.

(2) Other changes in ownership. A change in members of a partnership occurs upon the death, withdrawal, expulsion,

or addition of a partner. Upon the death of a sole proprietor or partner, or the dissolution of a corporation or partnership, or any change in members of a partnership, or other change in ownership not specifically provided for in this section, an authorized representative of the previously existing dealership or of the successor in interest shall notify AFS in writing and shall immediately cease all LP-gas activities of the previously existing dealership which require an LP-gas license or manufacturer registration and shall not resume until LP-Gas Operations issues an LP-gas license or manufacturer registration to the successor in interest.

(b) Change in dealership business entity. When a dealership converts from one business entity into a different kind of business entity, the resulting entity shall have a current and valid license or manufacturer registration authorizing the LP-gas activities to be performed or shall apply for and be issued a license or manufacturer registration before engaging in any LP-gas activities which require an LP-gas license or manufacturer registration and shall immediately notify AFS in writing of the change in business entity.

(c) Dealership name change. A licensee or manufacturer registration which changes its name shall not be required to obtain a new license or manufacturer registration but shall immediately notify AFS as follows prior to engaging in any LP-gas activities under the new name. The licensee or manufacturer registration shall file:

(1) an amended LPG Form 1 or LPG Form 1M;
(2) an amended Form 1A if outlet names will change;

(3) a copy of the licensee's or registered manufacturer's business documents reflecting the name change, such as amendments to the articles of incorporation or assumed name filings;

(4) certificates of insurance or affidavits in lieu of insurance if permitted by §9.26 of this title (relating to Insurance and Self-Insurance Requirements) or both; and

(5) any other forms required by AFS.

(d) Company representative and operations supervisor. In all changes of ownership, form of dealership, or name of dealership, the resulting entity shall have a properly certified company representative for the license and an operations supervisor, if required, at each outlet and as outlined in §9.17 of this title (relating to Designation and Responsibilities of Company Representatives and Operations Supervisors).

(e) In the event of a death of a sole proprietor or partner, the AFS director may grant a temporary exception not to exceed 30 calendar days to the examination requirement for company representatives and operations supervisors. An applicant for a temporary exception shall comply with applicable safety requirements.

§9.23. Limitation/Avoidance of Licensee Liability

(a) An LP-gas licensee shall not limit or avoid its liability or that of its insurer for damages proximately resulting from any negligent act or acts of the licensee.

(b) An attempt to limit or avoid liability before the negligent act or acts, through indemnity clauses or otherwise, shall be null and void.

(c) This section shall not apply to negotiations or settlements, or both, made subsequent to a licensee's negligent act or acts.

(d) To the extent that any damage occurring during or subsequent to any of the following acts does not proximately result from any negligent act of the licensee, the licensee may limit liability based upon:

(1) unauthorized, unsafe, or improper application of LP-gas or any LP-gas system or equipment by any user or other person;

(2) any use or operation of LP-gas or any LP-gas system or equipment contrary to specific representations made by any user or other person to an LP-gas licensee during or preceding installation or servicing of such LP-gas system or equipment and relied upon by such LP-gas licensee in selecting, designing, installing, or servicing such system or equipment; or

(3) any modification, change, installation, alteration, tampering, or other action by any unlicensed person to or upon any LP-gas system or equipment.

§9.26. Insurance and Self-Insurance Requirements

(a) A licensee or registered manufacturer shall not perform any activity authorized by its license or registration under §9.6 of this title (relating to License Categories, Container Manufacturer Registration, and Fees) unless insurance coverage required by this section is in effect. LP-gas licensees, registered manufacturers, or applicants for license or manufacturer registration shall comply with the minimum amounts of insurance specified in Table 1 of this section or with the self-insurance requirements in subsection (i) of this section, if applicable. Registered manufacturers are not eligible for self-insurance. Before AFS grants or renews a manufacturer registration, an applicant for a manufacturer registration shall submit the documents required by paragraph (1) of this subsection. Before AFS grants or renews a license, an applicant for a license shall submit either:

(1) An insurance Acord™ form; or any other form approved by the Texas Department of Insurance that has been prepared and signed by the insurance carrier containing all required information. The forms must be issued by an insurance company authorized or accepted by the Texas Department of Insurance; or

(2) properly completed documents demonstrating the applicant's compliance with the self-insurance requirements set forth in subsection (j) of this section.

Figure: 16 TAC §9.26(a)
§9.26 INSURANCE REQUIREMENTS
TABLE 1

CATEGORY OF LICENSE	TYPE OF COVERAGE
All Except P	Workers' Compensation, including Employer's Liability or Alternative to Workers' Compensation including Employer's Liability, or Accident/ Health insurance coverage: Medical expenses in the principal amount of at least $150,000; accidental death benefits in the principal amount of at least $100,000; loss of limb or sight on a scale based on principal amount of at least $100,000; loss of income based on at least 60% of employee's pre-injury income for at least 52 weeks, subject to a maximum weekly wage calculated annually by the Texas Workforce Commission
A, A1, A2, B, C, E, O, H, J, and Registered Manufacturers	General liability coverage including: premises and operations in an amount of at least $300,000 per occurrence and $300,000 aggregate
A, A1, A2, B, C, E, O, and Registered Manufacturers	Completed operations or products liability insurance, or both, in an amount of at least $300,000 aggregate
D, F, G, I, K, L, M, N, P	General liability coverage including: premises and operations in an amount of at least $25,000 per occurrence with a $50,000 policy aggregate
C, E, H, J, Ultimate Consumer	Motor vehicle coverage: minimum $500,000 ($300,000 for state agencies) combined single limit for bodily injuries to or death of all persons injured or killed in any one accident, and loss or damage to property of others in any one accident

(b) Each licensee or registered manufacturer shall file LPG Form 999 or other written notice with AFS at least 30 calendar days before the cancellation of any insurance coverage. The 30-day period commences on the date the notice is actually received by AFS.

(c) A licensee or applicant for a license that does not employ or contemplate employing any employee to be engaged in LP-gas related activities in Texas may file LPG Form 996B in lieu of filing a workers' compensation insurance form, including employer's liability insurance, or alternative accident and health insurance coverage. The licensee or applicant for a license shall file the required insurance form with AFS before hiring any person as an employee engaged in LP-gas related work .

(d) A licensee, applicant for a license, or an ultimate consumer that does not operate or contemplate operating a motor vehicle equipped with an LP-gas cargo container or does not transport or contemplate transporting LP-gas by vehicle in any manner may file LPG Form 997B in lieu of a motor vehicle bodily injury and property damage insurance form, if this certificate is not otherwise required. The licensee or applicant for a license shall file the required insurance form with AFS before operating a motor vehicle equipped with an LP-gas cargo container or transporting LP-gas by vehicle in any

manner.

(e) A licensee, registered manufacturer, or applicant for a license or manufacturer registration that does not engage in or contemplate engaging in any LP-gas activities that would be covered by completed operations or products liability insurance, or both, may file LPG Form 998B in lieu of a completed operations and/or products liability insurance form. The licensee, registered manufacturer, or applicant for a license or manufacturer registration shall file the required insurance form with AFS before engaging in any operations that require completed operations and/or products liability insurance.

(f) A licensee, registered manufacturer, or applicant for a license or manufacturer registration that does not engage in or contemplate engaging in any operations that would be covered by general liability insurance may file LPG Form 998B in lieu of filing a general liability insurance form. The licensee, registered manufacturer, or applicant for a license or manufacturer registration shall file the required insurance form with AFS before engaging in any operations that require general liability insurance.

(g) A licensee may protect its employees by obtaining accident and health insurance coverage from an insurance company authorized to write such policies in this state as an alternative to workers' compensation coverage. The alternative coverage shall be in the amounts specified in Table 1 of this section.

(h) A state agency or institution, county, municipality, school district, or other governmental subdivision shall meet the requirements of this section for workers' compensation, general liability, and/or motor vehicle liability insurance. The requirement may be met by filing LPG Form 995 with AFS as evidence of self-insurance, if permitted by the Texas Labor Code, Title 5, Subtitle C, and Texas Natural Resources Code, §113.097.

(i) Self-insurance requirements.

(1) This subsection applies to a licensee's or a license applicant's motor vehicle bodily injury and property damage liability coverage and general liability coverage. A licensee or license applicant shall not elect to self-insure for more than 12 consecutive months, exclusive of the six-month period for which a letter of credit is required to remain in effect pursuant to paragraph (4) of this subsection.

(2) A licensee or license applicant desiring to self-insure shall file with AFS a properly completed LPG Form 28, Notice of Election to Self-Insure and a properly completed LPG Form 28A, Bank Declarations Regarding Irrevocable Letter of Credit. The licensee or license applicant shall attach to the LPG Form 28A any documentation necessary to show that the bank issuing the irrevocable letter of credit meets the requirements in paragraph (5)(E) of this subsection.

(3) The irrevocable letter of credit shall be in an amount that is no less than the total of all minimum insurance coverage amounts required by the Commission in the Table in subsection (a) of this section for every coverage for which the licensee or license applicant seeks to self-insure.

(4) The irrevocable letter of credit shall be valid until the expiration date shown on LPG Form 28, which shall be no sooner than six months after the earlier of either:

(A) the expiration date of the license; or

(B) the effective date of insurance coverage.

(5) A letter of credit commemorated by LPG Form 28-A shall:

(A) be irrevocable during its term;

(B) be payable to the Commission or Commission's designee in part or in full as directed by the Commission in compliance with an order from state or federal court;

(C) include a guarantee from the bank that issues the letter of credit (irrevocable confirmed credit);

(D) not apply to the licensing requirements for worker's compensation insurance including employers liability insurance or alternative accident/health insurance; and

(E) be issued by a federally insured bank authorized to do business in the State of Texas which meets or exceeds the following requirements:

(i) Bank management shall attest that the bank is not subject to any outstanding written enforcement action, agreement, order, capital directive, or prompt corrective action directive issued by a state or federal bank regulatory agency;

(ii) The bank shall be "well capitalized" as defined in federal bank regulatory statutes with:

(I) a total risk-based capital ratio of 10% or greater;

(II) a Tier 1 risk-based capital ratio of 6% or greater; and

(III) a leverage ratio of 5% or greater.

(iii) The bank shall have received a satisfactory or better rating at its most recent Community Reinvestment Act (CRA) examination by a federal bank regulatory agency;

(iv) The bank management shall attest that the full amount of the letter of credit, when added to other indebtedness of the licensee or applicant for license to the bank, is within the bank's regulatory lending limit; and

(v) The issuing bank shall be in good standing with the State Comptroller's Office regarding the payment of franchise taxes and other obligations to the state.

(6) In addition to the requirements of §9.36 of this title (relating to Report of LP-Gas Incident/Accident), within 30 days of the occurrence of any incident or accident involving the business activities of a self-insured LP-gas licensee that results in property damage or loss and/or personal injuries, the licensee shall notify AFS in writing of the incident. The licensee shall include in the notification a list of the names and addresses of any individuals known to the licensee who may have suffered losses in the incident. The licensee shall also provide written notice to all such individuals of the licensee's status as being self-insured and of the expiration date of the licensee's letter of credit.

(j) Each licensee or registered manufacturer shall promptly notify AFS of any change in insurance coverage or insurance carrier by filing a properly completed Acord™ form; other form approved by the Texas Department of Insurance that has been prepared and signed by the insurance carrier containing all required information; or documents demonstrating the applicant's compliance with the self-insurance requirements set forth in subsection (i) of this section. Failure to promptly

notify AFS of a change in the status of insurance coverage or insurance carrier may result in an enforcement action and an administrative penalty.

§9.27. Application for an Exception to a Safety Rule

(a) A person may apply for an exception to the provisions of this chapter by filing LPG Form 25 along with supporting documentation, and a $50 filing fee with AFS.

(b) The application shall contain the following:

(1) the section number of any rules for which an exception is being requested;

(2) the type of relief desired, including the exception requested and any information which may assist AFS in comprehending the requested exception;

(3) a concise statement of facts which support the applicant's request for the exception, such as the reason for the exception, the safety aspects of the exception, and the social and/or economic impact of the exception;

(4) for all stationary installations, regardless of size, a description of the acreage and/or address upon which the subject of the exception will be located. The description shall be in writing and shall include:

(A) a site drawing;

(B) sufficient identification of the site so that determination of property boundaries may be made;

(C) a plat from the applicable appraisal district indicating the ownership of the land;

(D) the legal authority under which the applicant, if not the owner, is permitted occupancy;

(5) the name, business address, and telephone number of the applicant and of the authorized agent, if any; and

(6) a list of the names and addresses of all interested entities as defined in subsection (c) of this section.

(c) Notice of the application for an exception to a safety rule.

(1) The applicant shall send a copy of LPG Form 25 by certified mail, return receipt requested, or otherwise delivered to all affected entities as specified in paragraphs (2), (3), and (4) of this subsection on the same date on which the form or application is filed with or sent to AFS. The applicant shall include a notice to the affected entities that any objection shall be filed with AFS within 18 calendar days of postmark or other delivery of the application. The applicant shall file all return receipts with AFS as proof of notice.

(2) If an exception is requested for a stationary site, affected entities to whom the applicant shall give notice shall include but not be limited to:

(A) persons and businesses owning or occupying property adjacent to the site;

(B) the city council or fire marshal, if the site is within municipal limits; and

(C) the county Commission, if the site is not within any municipal limits.

(3) If an exception is requested for a motor or mobile fuel installation, affected entities to whom the applicant shall give notice shall include but not be limited to:

(A) the Texas Department of Public Safety; and

(B) all processed gas loading and unloading facilities utilized by the applicant.

(4) AFS may require an applicant to give notice to persons in addition to those listed in paragraphs (2) and (3) of this subsection if doing so will not prejudice the rights of any entity.

(d) Objections to the requested exception shall be in writing, filed at AFS within 18 calendar days of the postmark of the application, and shall be based on facts that tend to demonstrate that, as proposed, the exception would have an adverse effect on public health, safety, or welfare. AFS may decline to consider objections based solely on claims of diminished property or esthetic values in the area.

(e) AFS shall review the application within 21 business days of receipt of the application.

(1) If AFS does not receive any objections from any affected entities as defined in subsection (c) of this section, the AFS director may administratively grant the exception if the director determines that the installation, as proposed, does not adversely affect the health or safety of the public. AFS shall notify the applicant in writing by the end of the 21-day review period and, if approved, the installation shall be installed within one year from the date of approval. AFS shall also advise the applicant at the end of the objection period as to whether any objections were received and whether the applicant may proceed.

(2) If the AFS director denies the exception, AFS shall notify the applicant in writing, outlining the reasons and any specific deficiencies.

(3) The applicant may modify the application to correct the deficiencies and resubmit the application along with a $30 resubmission fee, or may request a hearing on the matter.

(4) To be granted a hearing, the applicant shall file a written request for hearing within 14 calendar days of receiving notice of the administrative denial.

(5) A hearing shall be held when AFS receives an objection as set out in subsection (d) of this section from any affected entity, or when the applicant requests one following an administrative denial. AFS shall forward the request for hearing to the Hearings Division.

(f) Applicants intentionally submitting incorrect or misleading information are subject to penalties in the Texas Natural Resources Code, §91.143, and the filing of incorrect or misleading information shall be grounds for dismissing the application with prejudice.

(g) After hearing, exceptions to this chapter may be granted by the Commission if the Commission finds that granting the exception for the installation, as proposed, will not adversely affect the safety of the public.

(h) A request for an exception shall expire if it is inactive for three months after the date of the letter in which the

applicant was notified by AFS of an incomplete request. The applicant may restart the application process.

§9.28. Reasonable Safety Provisions

If an LP-gas installation, equipment, or appurtenances not specifically covered by the rules in this chapter has been or will be installed, AFS may require a licensee to comply with additional or alternative reasonable safety provisions to ensure the LP-gas installation is safe for LP-gas service. If the affected licensee disagrees with AFS' requirements, the licensee may request a hearing. The installation shall not be placed into LP-gas service until the Commission has determined that the installation is safe for LP-gas service.

§9.31. LP-Gas Regional Supply Emergency Response

(a) The purpose of this section is to develop a distribution plan to minimize the severity of disruptions in the supplies of LP-gas in various regions of Texas. This section outlines the Commission's mechanisms for both determining that a regional LP-gas shortage exists and responding to a regional LP-gas shortage emergency.

(b) The Commission may determine that an LP-gas supply emergency exists within designated counties of the state. The Commission may also determine the duration of the regional supply emergency. The Commission shall issue notice when it has determined that an LP-gas regional supply emergency exists and when it determines that the LP-gas regional supply emergency has ended or will end. In determining whether an LP-gas regional supply emergency exists, the Commission may consider any relevant information, including but not limited to the following:

(1) notification from LP-gas storage facilities as appropriate, including, but not limited to, storage facilities located at gas processing plants, pipeline terminals, petroleum refineries, and inland salt domes, that they are attaining maximum LP-gas withdrawal rates;

(2) notification from LP-gas licensees that sufficient supplies are not available locally or that curtailments are anticipated; and

(3) weather data.

(c) Upon the Commission finding that an LP-gas regional supply emergency exists, the Commission may request selected LP-gas loading rack operators to give first priority in loading to LP-gas transport vehicles whose cargoes are bound for counties designated as within the region subject to the LP-gas supply emergency until the regional supply emergency has been determined to be abated.

§9.32. Consumer Safety Notification

(a) A person holding a license to install or repair an LP-gas system who sells, installs, or repairs an LP-gas system, piping, or other equipment that is part of a system, or an appliance that is connected or attached to a system shall provide the following notice to the purchase or owner of the system, piping, or other equipment or appliance: "WARNING: Flammable Gas. The installation, modification, or repair of an LPG system by a person who is not licensed or registered to install, modify, or repair an LPG system may cause injury, harm, or loss. Contact a person licensed or registered to install, modify, or repair an LPG system. A person licensed to install or repair an LPG system may not be liable

for damages caused by the modification of an LPG system by an unlicensed person except as otherwise provided by applicable law."

(b) A person holding a license to install or repair an LP-gas system who sells, installs, or repairs an LP-gas system, piping, or other equipment that is part of a system, or an appliance that is connected or attached to a system shall document the notice requirements in subsection (a) of this section.

§9.35. Written Procedure for LP-Gas Leaks

(a) Each licensee shall maintain a written procedure to be followed when any employee receives notification of a possible leak. The licensee shall ensure that all employees are familiar with the procedure and shall authorize employees to implement the procedure without management oversight. The written procedure shall be available to emergency response agencies as specified in NFPA 58, §6.29.2.

(b) The written procedures shall include the classification of the leak grade as defined in §9.2 of this title (relating to Definitions).

(c) The procedures shall include the appropriate action criteria for the classification of leak determined according to the table in this section. The examples of leak conditions are provided as guidelines and are not exclusive. The judgment of the company personnel at the scene is of primary importance in determining the grade assigned to a leak.

Table 1: 16 TAC §9.35(c)
LP-Gas Leak Classification

Classification	Action Criteria	Examples
Grade 1	Requires prompt action to protect life and property. The prompt action in some instances may require one or more of the following: 1. Implementation of company emergency plan 2. Evacuating premises 3. Blocking off an area 4. Rerouting traffic 5. Eliminating sources of ignition 6. Venting the area 7. Stopping the flow of gas by closing valves or other means 8. Notifying police and fire departments	1. Any leak which, in the judgment of operating personnel at the scene, is regarded as an immediate hazard 2. Escaping gas that has ignited 3. Any indication of gas which has migrated into or under a building or into a tunnel 4. Any leak that can be seen, heard or felt and which is in a location that may endanger the general public or property
Grade 2	Many Grade 2 leaks, because of their location and magnitude, can be scheduled for repair on a normal routine basis with periodic re-inspection as necessary. Product may not be introduced into a container with a Grade 2 leak on a container appurtenance until the leak is repaired.	Any leak which, in the judgment of operating personnel at the scene, is NOT regarded as an immediate hazard shall be scheduled for repair, where no migration of gas into or under a building or into a tunnel is evident

§9.36. Report of LP-Gas Incident/Accident

(a) At the earliest practical moment or within two hours following discovery, a licensee owning, operating, or servicing equipment or an installation shall notify AFS by telephone of any event involving LP-gas which:

(1) caused a death or any personal injury requiring hospitalization;

(2) required taking an operating facility out of service;

(3) resulted in unintentional gas ignition requiring an emergency response;

(4) involved the LP-gas installation on any vehicle propelled by or transporting LP-gas;

(5) caused an estimated damage to the property of the operator, others, or both totaling $5,000 or more, including gas loss;

(6) could reasonably be judged as significant because of rerouting of traffic, evacuation of buildings, or media interest even though it does not meet paragraphs (1) - (5) of this subsection; or

(7) is required to be reported to any other state or federal agency (such as the Texas Department of Public Safety or the United States Department of Transportation).

(b) The telephonic notice required by this section shall be made to the Railroad Commission's 24-hour emergency line at (512) 463-6788 or 844-773-0305 and shall include the following:

(1) name of reporting operator;

(2) location of leak or incident;

(3) date and time of incident;

(4) fatalities and/or personal injuries;

(5) phone number of operator;

(6) status of incident regarding immediate hazard; and

(7) other significant facts relevant to the incident.

(c) Following the initial telephone report, the LP-gas licensee who made the telephone report shall submit a properly completed LPG Form 20 to AFS. The report shall be postmarked within 14 calendar days of the date of initial notification to AFS, or within five business days of receipt of the fire department's report, whichever occurs first, unless AFS grants authorization for a longer period of time when additional investigation or information is necessary.

(d) Within five business days of receipt, AFS shall review LPG Form 20 and notify in writing the person submitting the LPG Form 20 if the report is incomplete and specify in detail what information is lacking or needed. Incomplete reports may delay the resumption of LP-gas activities at the involved location.

(e) In the case of an accident or incident at a Category P licensee's location, the Category P licensee shall immediately notify the Category E or J licensee who supplies cylinders to the Category P licensee and the Category E or J licensee shall be responsible for making the accident or incident report to AFS as specified in this section.

§9.37. Termination of LP-Gas Service

(a) If AFS determines that any LP-gas container or installation constitutes an immediate danger to the public health, safety, and welfare, AFS shall require the immediate removal of liquid and vapor LP-gas and/or the immediate disconnection by a properly licensed company to the extent necessary to eliminate the danger. This may include appliances, equipment, or any part of the system including the servicing container. A warning tag shall be installed by AFS until the unsafe condition is remedied. Once the unsafe condition is corrected, the tag may be removed if authorized by AFS.

(b) If AFS determines that any LP-gas container or installation does not comply with the Texas Natural Resources Code, Chapter 113, or the rules in this chapter, but does not constitute an immediate danger to the public health, safety, and welfare, AFS shall take action to ensure that the container or installation comes into compliance as soon as practicable. AFS action may include the placement of a warning tag. Once the container or installation complies with Texas Natural Resources Code, Chapter 113, and the rules in this chapter, AFS may remove or delegate the removal of the warning tag.

(c) If the affected entity disagrees with the removal from service and/or placement of a warning tag, the entity may request a review of AFS' decision within 10 calendar days. AFS shall notify such entity of its finding, in writing, stating the deficiencies, within 10 business days. If the entity disagrees, the entity may request or AFS on its own motion may call a hearing. Such installation shall be brought into compliance or removed from service until such time as the final decision is rendered by the Commission.

§9.38. Reporting Unsafe LP-Gas Activities

(a) A person may report any unsafe or noncompliant LP-gas activities to AFS by mail, telephone, email, or fax. When possible, the person shall make the report using LPG Form 22. Within five business days of receipt of such report, AFS shall notify the alleged non-compliant party in writing regarding the report and specify the reported non-compliant installations and/or activities.

(b) The Commission may release the person's name in accordance with applicable open records procedures.

(c) A person who reports unsafe LP-gas activities may be called to testify at a Commission hearing if one is necessary following the initiation of an enforcement action.

§9.41. Testing of LP-Gas Systems in School Facilities

(a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

(1) Leakage test--An operation performed on a school LP-gas system using LP-gas as the test medium at not more

than normal operating pressure and a gauging instrument measuring gas pressure in psig, ounces/square inch, or inches of water column to verify there is no gas leakage.

(2) School district--An entity created under the laws of this state and accredited by the Texas Education Agency under Texas Education Code, Chapter 39, Subchapter D; a private elementary or secondary school, other than a school in a residence; or a state or regional school for the blind and visually impaired or the deaf created under Texas Education Code, Chapter 30.

(3) School district facility--Each building or structure operated by a school district and equipped with a school LP-gas system, in which students receive instructions or participate in school sponsored extracurricular activities, excluding maintenance or bus facilities, vehicle fueling facilities, administrative offices, and similar facilities not regularly used by students.

(4) School LP-gas system--All piping, fittings, valves, regulators, appliance connectors, equipment, and connections supplying fuel gas from the outlet of the shutoff valve at each LP-gas storage container or upstream of each meter to the shutoff valve(s) on each appliance in a school district facility.

(5) Supplier--An individual or company that sells and delivers LP-gas to a school district facility. If more than one individual or company sells and delivers LP-gas to a school district facility, each individual or company is a supplier for purposes of this section.

(b) School district requirements. A school district shall ensure that a leakage test is performed on each school LP-gas system as specified in this section.

(1) The leakage test shall be performed by an LP-gas licensee, an individual registered with the Commission pursuant to §9.13 of this title (relating to General Installers and Repairman Exemption), or an employee of the school district who is a certificate holder.

(2) If a leak is found in a school LP-gas system, the school district shall immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If an employee of a school district performs the initial test, then the subsequent test may not be performed by a school district employee.

(3) Each school district shall provide the district's supplier with a copy of the most current LP-Gas Form 30 as proof the school LP-gas system has been tested in accordance with this section.

(4) A school district shall retain LPG Form 30 specifying the date and result of the leakage test performed on each school LP-gas system for a minimum of five years from the date each test was performed. A school district shall make LPG Form 30 readily available for review by the Commission or its authorized representative upon request.

(c) Leakage test requirements.

(1) The results of the leakage test for each building or structure shall be immediately documented on LPG Form 30.

(2) LP-gas shall be used as the test medium.

(3) Leakage test pressure shall not exceed normal operating pressure.

(4) Leakage test duration shall not be less than 30 minutes.

(5) Test pressure shall be monitored with a manometer or with a pressure-measuring instrument designed and calibrated to read, record, or indicate a pressure loss caused by leakage during the test period. Mechanical gauges used to measure test pressures shall have a range such that the highest end of the scale is not greater than five times the test pressure.

(6) The manual shutoff valve installed in the piping upstream of each appliance must be open and must supply pressure to the appliance. To prove the integrity of the 100 percent pilot shutoff valve on each appliance so equipped, the manual control on the 100 percent pilot shutoff valve must be turned to the on position. Pilots not incorporating a 100 percent pilot shutoff valve and all manual gas valves not incorporating safety shutoff systems shall be in the off position prior to the leakage test.

(d) Methods for conducting a leakage test.

(1) Upstream of first stage regulator. Insert a pressure gauge between the manual shutoff valve on the container(s) and the first stage regulator. Admit full container pressure to the system, and then close the manual shutoff valve on the container(s). Release gas from the system to lower the pressure gauge reading by 10 psig. If there is no decrease or increase in gauge pressure after the minimum test duration of 30 minutes, the system has no leakage and may remain in service.

(2) Between first stage and second stage regulators. Insert a pressure gauge with a 30-psig scale downstream of the first stage regulator, pressurize the system to normal operating pressure, and then close the manual shutoff valve on the container(s). Release LP-gas from the system to lower the pressure gauge reading by at least one-half the inlet pressure to the second stage regulator. If there is no decrease or increase in gauge pressure after the minimum test duration of 30 minutes, the system has no leakage and may remain in service.

(3) Downstream of final stage regulator(s). For systems serving appliances that receive gas at pressures of 1/2 psig or less, insert a water manometer or pressure gauge into the system downstream of the final system regulator. Pressurize the system to normal operating pressure and close the manual shutoff valve on the container(s). To ensure that all regulators in the system are unlocked and a leak anywhere in the system is communicated to the gauging instrument, release enough gas from the system, through a range burner or other suitable means, to drop the pressure to 9 (plus or minus 1/2) inches of water column. If there is no decrease or increase in gauge pressure after the minimum test duration of 30 minutes, the system has no leakage and may remain in service.

(e) Supplier requirements. A supplier shall terminate LP-gas service to a school district facility if:

(1) the supplier receives official notification from the school district or the person conducting the leakage test that there is leakage in a school LP-gas system;

(2) the leakage test performed on a school LP-gas system was not performed in accordance with the requirements of this section; or

(3) the supplier has not received a copy of LPG Form 30 from the school district verifying that the school LP-gas system has been tested in accordance with this section.

(f) Commission requirements.

(1) At the request of a school district, the Commission shall assist the district in providing for the certification of an employee of the school district or school, as applicable, to conduct a leakage test.

(2) AFS shall initiate any enforcement proceedings necessary under Texas Natural Resources Code, Chapter 113.

(g) Compliance deadlines.

(1) Each school district shall ensure a leakage test is performed as required by this section at least once every two years.

(2) School districts shall complete the leakage tests before the beginning of the school year. In the case of a year-round school, a school district shall ensure that a leakage test in each school district facility is conducted and reported not later than July 1 of the year in which the test is performed.

(3) A school district may perform the leakage tests on a two-year cycle provided that at least one-half of the school district's facilities are tested each year.

§9.51. General Requirements for LP-Gas Training and Continuing Education

(a) In addition to complying with NFPA 58, §§4.4 and 11.2, individuals shall comply with the training and continuing education requirements in this chapter.

(b) Applicants for new certificates, as set forth in §9.8 of this title (relating to Requirements and Application for a New Certificate) and persons holding existing certificates shall comply with the training or continuing education requirements in this chapter. Any individual who fails to comply with the training or continuing education requirements by the assigned deadline may regain certification by paying the nonrefundable course fee and satisfactorily completing an authorized training or continuing education course within two years of the deadline. In addition to paying the course fee, the person shall pay any fee or late penalties to AFS.

(c) The training requirements apply to:

(1) applicants for Category D, E, F, G, I, J, K, or M management-level certificates; and

(2) applicants for the following employee-level certifications:

(A) bobtail driver;

(B) DOT cylinder filler;

(C) recreational vehicle technician

(D) service and installation technician

(E) appliance service and installation technician; and

(F) motor/mobile fuel filler.

(d) The continuing education requirements apply to the following individuals:

(1) Category D, E, F, G, I, J, K and M management-level certificate holders;

(2) any ultimate consumer who has purchased, leased, or obtained other rights in any LP-gas bobtail, including any employee of such ultimate consumer if that employee drives or in any way operates the equipment on an LP-gas bobtail; and

(3) individuals holding the following employee-level certifications:

(A) bobtail driver;

(B) DOT cylinder filler;

(C) recreational vehicle technician;

(D) service and installation technician;

(E) appliance service and installation technician; and

(F) motor/mobile fuel filler.

(e) The training and continuing education requirements do not apply to an individual who:

(1) drives or fuels a motor vehicle powered by LP-gas as an ultimate consumer;

(2) fuels motor vehicles as an employee of an ultimate consumer;

(3) is employed by a state agency, county, municipality, school district, or other governmental subdivision;

(4) holds a general installers and repairman exemption; or

(5) holds a management or employee-level certification not specified in subsection (c) or (d) of this section.

(f) Except as provided in §9.41(b) of this title (relating to Testing of LP-Gas Systems in School Facilities), each individual who performs LP-gas activities as an employee of an ultimate consumer or a state agency, county, municipality, school district, or other governmental subdivision shall be properly supervised by his or her employer. Any such individual who is not certified by the Commission to perform such LP-gas activities shall be properly trained by a competent person in the safe performance of such LP-gas activities.

(g) Individual credit. Successful completion of any required training or continuing education course shall be credited to and accrue to the individual.

(h) No partial credit. Individuals attending courses shall receive credit only if they attend the entire course and pay any training or continuing education course fees in full. The Commission shall not award partial credit for partial attendance.

(i) Schedules. Dates and locations of available AFS LP-gas training and continuing education courses can be obtained in the Austin offices of AFS, and on the Commission's web site and shall be updated at least monthly. AFS courses shall

be conducted in Austin and in other locations around the state. Individuals or companies may request in writing that AFS courses be taught in their area. AFS shall schedule its courses and locations at its discretion.

(j) Course registration and scheduling.

(1) Registering for a course. To register for a scheduled training or continuing education course, an individual shall complete the online registration process at least seven days prior to the course. AFS shall also accept course registrations via regular mail, electronic mail (e-mail), or facsimile transmission (fax). Such requests shall include the applicant's full name, address, phone number, level (either manager or employee) and category of certification (such as cylinder filling or service and installation), e-mail address, and the name or number, location, and date of the requested course.

(2) Costs for courses.

(A) Each registration for a training course shall require the payment of the applicable nonrefundable course fee as follows:

(i) $75 for an eight-hour course;

(ii) $150 for the 16-hour Category F, G, I, and J course; and

(iii) $750 for the 80-hour Category E course.

(B) The course fees do not include the license or rules examination fees described in §9.6 and §9.10 of this title (relating to License Categories, Container Manufacturer Registration, and Fees, and Rules Examination, respectively).

(C) Current certificate holders who have paid the annual renewal fee and who want to add a new certification other than Category E, F, G, I, or J shall not be required to pay the $75 course fee.

(D) Continuing education courses shall be offered at no charge to certificate holders who have timely paid the annual certificate renewal fee specified in §9.9 of this title.

(E) Requests for courses where no training or continuing education course credit is given shall be submitted in writing to the AFS training section. The AFS training section may conduct the requested courses at its discretion. The nonrefundable fee for a non-credit course is $250 if no overnight expenses are incurred by the AFS training section, or $500 if overnight expenses are incurred. AFS may waive the fee for a non-credit course in cases where the Commission recovers the cost of the course from another source, such as a grant.

(F) AFS may charge reasonable fees for materials for courses using third-party materials.

(3) Course scheduling. AFS shall schedule individuals to attend courses on a first-come, first-served basis, based on when the course fee is paid except as follows:

(A) Priority for attending the 16-hour Category F, G, I, and J course, and the 80-hour Category E course is based on when the course fee is paid.

(B) Priority for attending courses other than the 16-hour Category F, G, I, and J course, and the 80-hour Category

E course shall be given to applicants or certificate holders who must comply with training or continuing education requirements by the next May 31 deadline.

(C) If any course has fewer than eight individuals registered within seven calendar days prior to the course, AFS may cancel the course and may reschedule the registered individuals in another course agreed upon by the individuals and the AFS training section. The AFS training section reserves the right to determine the number of course registrants.

(4) If a previously registered individual is unable to attend the course at the time and place for which the individual is registered due to illness or other unforeseen circumstances, another individual from the same company may attend that same course in his or her place.

(5) Applicants who take courses offered by an entity other than AFS shall comply with the registration, fee, and other requirements specified by that entity.

(k) An individual registered to take a course shall bring the following items to the course site:

(1) a registration confirmation email or fax;

(2) proof of payment unless exempt from the course fee; and

(3) documents required in §9.10(b) of this title if one or more examinations will be taken.

(l) Individual applicants or certificate holders shall be responsible for promptly notifying the AFS training section in writing of any discrepancies or errors in the training or continuing education records, and shall notify AFS of any discrepancies or errors in examination records or certificates. In the event of a discrepancy, AFS' records, including due dates, shall be deemed correct unless the individual has copies of applicable documents which clarify the discrepancy.

§9.52. Training and Continuing Education Courses

(a) Training. Individuals identified in §9.51(c) of this title (relating to General Requirements for LP-Gas Training and Continuing Education) shall complete training.

(1) Available training courses.

(A) The 2.1 Dispenser Operations course covers proper filling and handling of ASME motor/mobile fuel containers, appurtenances, DOT cylinders, and dispenser operations.

(B) The 2.3 Bobtail Operations course covers federal and state regulations that apply to hazardous material transportation, the operation of propane delivery vehicles, and the rules in this chapter, including NFPA 54 and NFPA 58, which apply to LP-gas installations.

(C) The 3.2 Residential System Installation course covers the requirements for proper installation and start-up of a residential propane system, including correct appliance operation.

(D) The 3.3 Appliance Conversion, Installation and Venting course covers the requirements for converting, installing, and venting of propane gas appliances.

(E) The 3.8 Recreational Vehicle Gas Appliances course covers servicing of recreational vehicles' LP-gas systems and appliances.

(F) The 16-hour Category F, G, I, and J course covers ASME motor/mobile fuel containers, appurtenances, DOT cylinders, the operations of a dispenser to fill tanks and cylinders, and applicable LP-gas requirements for obtaining a Category F, G, I or J management-level certificate.

(G) The 80-hour Category E course covers all the material in courses 2.1, 2.3, 3.2, 3.3 and 3.8, and the Commission's rules in this chapter, including NFPA 54 and NFPA 58.

(2) Training requirements.

(A) Category E management-level applicants shall attend the 80-hour Category E course;

(B) Category F, G, I, and J management-level applicants shall attend the 16-hour Category F, G, I and J course; and

(C) Category D, K and M management- level applicants and all applicants for employee-level certifications that are subject to training requirements shall complete an eight-hour course. A certificate holder's training deadline shall not be extended if that individual retakes and passes an examination for the current category and level of certification. A training deadline shall be extended only after a certificate holder successfully completes an applicable training course.

(i) Category D management-level applicants shall complete the 3.2 course.

(ii) Category K management-level applicants shall complete the 3.2 course.

(iii) Category M management-level applicants complete the 3.8 course.

(iv) DOT Cylinder Filler applicants shall complete the 2.1 course.

(v) Motor and Mobile Fuel Filler applicants shall complete the 2.1 course.

(vi) Bobtail Driver applicants shall complete the 2.3 course.

(vii) Service and Installation applicants shall complete the 3.2 course.

(viii) Appliance Service and Installation applicants may complete either the 3.2 or 3.3 course.

(ix) Recreational Vehicle Technician applicants shall complete the 3.8 course.

(3) Individuals who pass an employee level rules examination between March 1 and May 31 of any year shall have until May 31 of the next year to complete any required training. Individuals who pass an employee level rules examination at other times shall have until the next May 31 to complete any required training. Completion of AFT shall be in accordance with subsection (g) of this section.

(4) Applicants for company representative or operations supervisor shall comply with the training requirements in

this section prior to the Commission issuing a certificate.

(b) Continuing education. A certificate holder shall complete at least eight hours of continuing education every four years as specified in this subsection. Continuing education courses are specified in subsection (g) of this section.

(1) Upon fulfillment of this requirement, the certificate holder's next continuing education deadline shall be four years after the May 31 following the date of the most recent class the certificate holder has completed, unless the course was completed on May 31, in which case the deadline shall be four years from that date.

(2) A certificate holder's continuing education deadline shall not be extended if an examination for a current category and level of certification is retaken and passed; a continuing education deadline shall be updated only after a certificate holder successfully completes an applicable continuing education course. An individual who completes a continuing education course after the assigned deadline shall have four years from the original deadline to complete the next course.

(3) Certificate holders who are certified as recreational vehicle technician or appliance service and installation technicians and are also certified to perform LP-gas activities covered by one or more other certifications shall complete the initial continuing education requirements for any one of the certifications held in order to maintain active status. For each subsequent continuing education requirement, such individuals shall be responsible for attending a different continuing education course relevant to one of the other certifications held.

(4) Certificate holders who attend a course offered by an outside instructor shall not be entitled to a refund of the annual renewal fee or any other fees or penalties required by the Commission.

(5) Certificate holders who have not paid the annual certificate renewal fee, including general installers and repairman exemption holders or members of the general public may attend courses at the charge specified in §9.51 of this title. A request to attend a course shall be in writing, submitted to the AFS training section, and granted at AFS's discretion on an individual basis and if space is available.

(6) Any certificate holder who has timely paid the annual certificate renewal fee but is not otherwise required to attend a Commission continuing education course may voluntarily attend a course, if space is available, by registering with the AFS training section as specified in §9.51 of this title.

(c) Adding a new certification. A current certificate holder who successfully completes an examination for an additional certification that requires completion of a training course shall be assigned a training deadline pursuant to subsection (a)(2) and (3) of this section. Upon completion of the required training, the certificate holder shall be assigned a continuing education date pursuant to subsection (b) of this section.

(d) Train-the-Trainer courses. The Train-the-Trainer courses shall not count as credit towards the training or continuing education requirements.

(e) Course materials. Individuals who attend AFS-taught training courses shall receive a copy of the course materials at no charge. Additional copies may be purchased from AFS at the established price.

(f) Certificates of completion. The AFS training section shall issue a certificate of completion to each individual who completes a management-level course.

(g) Advanced field training (AFT). Some courses may include AFT in addition to the classroom hours, during which course attendees shall perform LP-gas activities. AFT shall be properly completed within 30 calendar days of attending the course. All qualification tasks included in the AFT shall be completed. The AFT materials, including the qualification checklist and the certification page, shall be readily available at the licensee's Texas business location for review by an authorized Commission representative during normal business hours.

(1) The responsibility of certifying AFT activities shall not be delegated to an unauthorized individual. AFT qualification tasks shall be witnessed by an authorized individual, verified as being successfully completed, and the AFT form signed as follows:

(A) For licensees with only one company representative, that company representative shall self-certify the AFT.

(B) For licensees with more than one company representative, one company representative may certify the AFT of another company representative, but shall not self-certify.

(C) Company representatives shall certify operations supervisors' AFT.

(D) The company representative or an operations supervisor authorized by the licensee and in current good standing with the Commission shall certify the employees' AFT.

(E) If authorized, a Commission-approved outside instructor may certify any AFT.

(2) Other AFT situations shall be handled as follows:

(A) For a certified individual employed by a licensee, the licensee shall retain the most recently completed AFT material for each applicable category of the individual's certification in the individual's employment records.

(B) For an individual who ceases employment with a licensee, the licensee shall retain the latest required AFT material for at least two years from the date the individual is no longer employed by the licensee. The two-year period shall be based on the renewal period for the examination renewal fee penalty. The licensee shall provide a copy of the AFT material to the individual.

(C) For an individual who begins employment with a different licensee, the new licensee shall obtain a copy of the individual's AFT material from the individual and shall place the copy in the individual's employment records.

(D) An individual who is never employed by a licensee shall retain the most recently completed AFT material for each applicable category of the individual's certification in a safe location for at least two years from the date the course that required the AFT was attended.

(E) For an individual who is employed by a licensee when a course requiring AFT is attended, but who prior to the AFT's being certified becomes employed by a new licensee, the new licensee shall certify the individual's AFT.

(F) For an individual who is employed by a licensee when a class requiring AFT is attended, but who prior to the AFT's being certified ceases employment with the licensee and wishes to continue performing LP-gas activities, the individual shall contact a company representative or operations supervisor of another applicable licensee or an Commission-approved outside instructor to complete the AFT and maintain the LP-gas certification.

(3) Individuals who attend the 80-hour Category E management-level course or the 16-hour Category F, G, I, and J management-level course shall perform any required AFT activities during the course.

(4) If AFT is required for a course, the AFT checklist outlining the specific activities to be performed shall be included in the course materials.

(5) A certified individual is exempt from the AFT requirement of a continuing education course if the individual has previously completed that same course, including the AFT.

(h) Available training and continuing education courses are shown in Tables 1 through 4 of this subsection. Items on the tables marked with an "x" indicate courses that meet training or continuing education requirements for management-level or employee-level certificate holders in that category.

(i) Credit for CETP courses. A certificate holder who has successfully completed a CETP course, including any applicable knowledge and skills assessments, may receive credit toward the continuing education requirements specified in this section as follows:

(1) The CETP course shall be approved for the category of certificate held as indicated on Tables 3 and 4 in subsection (h) of this section.

(2) The successful completion of a CETP course is determined by a CETP course certificate, which is issued only after an individual has completed the prescribed course of study, including any related knowledge and skills assessments, for the applicable CETP job classification.

(3) To receive credit toward the Commission's continuing education requirements, the certificate holder shall submit the following information, clearly readable, to AFS.

(A) the individual's full name, address, and telephone number;

(B) a copy of the certificate holder's certificate; and

(C) a legible copy of the official CETP course certificate.

(4) AFS shall review the submitted material within 30 business days of receipt and shall notify the certificate holder in writing that the request is approved, denied, or incomplete.

(A) If the material is incomplete, AFS shall identify the necessary additional information required.

(B) The certificate holder shall file the additional information within 30 calendar days of the date of a notice of deficiency in order to receive credit for the CETP course attendance.

Figure: 16 TAC §9.52(h) -- Table One
LP-GAS MANAGEMENT-LEVEL TRAINING AND CONTINUING EDUCATION COURSES (Revised February 2007)

Course Number	Course Hours	AFT	Course Title	Category D Mgmt.	Category E Mgmt.	Category F Mgmt.	Category G Mgmt.	Category I Mgmt.	Category J Mgmt.	Category K Mgmt.	Category M Mgmt.
1.1	8		Introduction to Propane	x	x	x	x	x	x	x	x
2.1	8	x	Dispenser Operations		x	x	x	x	x		
2.3	8	x	Bobtail Operations		x						
3.1	8		Residential System Layout and Design	x	x					x	
3.2	8	x	Residential System Installation	x	x						
3.3	8	x	Appliance Conversion, Installation and Venting	x	x						
3.5	8		Residential Appliance Controls	x	x						
3.7	8		Electrical Troubleshooting and Repair of Residential Gas Appliances	x	x						
3.8	8	x	Recreational Vehicle Gas Appliances								x
3.11	8		Residential System Inspection	x	x						
6.1	8		Regulatory Compliance for Managers	x	x	x	x	x	x	x	x
80	80		Category E Management Course	x	x	x	x	x	x	x	x
16	16		Category F, G, I, and J Management Course		x	x	x	x	x		

Figure: 16 TAC §9.52(h) -- Table Two
LP-GAS EMPLOYEE-LEVEL TRAINING AND CONTINUING EDUCATION COURSES (Revised February 2008)

Course Number	Course Hours	AFT	Course Title	DOT Cylinder Filling	Motor & Mobile Fuel Dispensing	Bobtail	Service & Installation	Appliance Service & Installation	Recreational Vehicle
1.1	8		Introduction to Propane	x	x	x	x	x	x
2.1	8	x	Dispenser Operations	x	x	x			
2.3	8	x	Bobtail Operations			x			
3.1	8		Residential System Layout and Design				x		
3.2	8	x	Residential System Installation				x		
3.3	8	x	Appliance Conversion, Installation and Venting				x	x	
3.5	8		Residential Appliance Controls				x	x	x
3.7	8		Electrical Troubleshooting and Repair of Residential Gas Appliances				x	x	
3.8	8	x	Recreational Vehicle Gas Appliances						x
3.11	8		Residential System Inspection			x	x	x	
80	80		Category E Management Course	x	x	x	x	x	x
16	16		Category F, G, I, and J Management Course	x	x	x			

Figure: 16 TAC §9.52(h) -- Table Three
COURSES WHICH COUNT TOWARDS CONTINUING EDUCATION CREDIT FOR MANAGEMENT-LEVEL CERTIFICATE HOLDERS
(Revised February 2008)

Course Number	Credit	Course Title		Category E Mgmt.	Category F Mgmt.	Category G Mgmt.	Category I Mgmt.	Category J Mgmt.	Category K Mgmt.	Category M Mgmt.
CETP 1.0	8	Basic Principles and Practices	x	x	x	x	x	x	x	x
CETP 2.1	8	Delivery Basics		x						
CETP 2.2	8	Operating a Bobtail to Deliver Propane		x						
CETP 2.3	8	Operating a Transport to Deliver Propane		x						
CETP 2.4	8	Operating a Cylinder Delivery Vehicle to Deliver Propane		x				x		
CETP 2.5	8	Operating a Truck, Tank Trailer or Tractor/ Trailer to Deliver or Relocate ASME Tanks		x						
CETP 3.1	8	Maintaining ASME Tanks		x						
CETP 3.2	8	Maintaining DOT Cylinders		x	x		x	x		
CETP 3.3	8	Operating Dispensing Equipment to Fill Containers		x	x	x	x	x		
CETP 3.4	8	Maintaining Bulk Plant Equipment		x						
CETP 3.5	8	Performing Cargo Tank Product Transfers		x						
CETP 3.6	8	Performing Railcar Product Transfers		x						
CETP 3.7	8	Maintaining DOT Intermodal (IM) Tanks		x						
CETP 4.1	8	Layout, Design, and Selection of a Vapor Distribution System	x	x						
CETP 4.2	8	Preparing and Installing Vapor Distribution Systems	x	x						
CETP 5.0	8	Transfer System Operations		x						
CETP 6.0	8	Appliance Installation	x	x						
CETP 7.0	8	Basic Electricity for Propane Appliances	x	x						
CETP 8.0	8	Large Industrial/Commercial Gas-Fired Equipment	x	x						
PERC GAS Check	8	GAS Check	x	x						

[1] Credit hours may not equal the total number of course hours.

Figure: 16 TAC §9.52(h) -- Table Four
COURSES WHICH COUNT TOWARDS CONTINUING EDUCATION CREDIT FOR EMPLOYEE-LEVEL APPLICANTS OR CERTIFICATE HOLDERS (Revised February 2008)

Course Number	Credit Hours[1]	Course Title	Portable Cylinder Filling	Motor & Mobile Fuel	Bobtail	Service & Installation	Appliance Service & Installation	Recreational Vehicle
CETP 1.0	8	Basic Principles and Practices	x	x	x	x	x	x
CETP 2.1	8	Delivery Basics			x			
CETP 2.2	8	Operating a Bobtail to Deliver Propane			x			
CETP 2.3	8	Operating a Transport to Deliver Propane			x			
CETP 2.4	8	Operating a Cylinder Delivery Vehicle to Deliver Propane						
CETP 2.5	8	Operating a Truck, Tank Trailer or Tractor/Trailer to Deliver or Relocate ASME Tanks				x		
CETP 3.1	8	Maintaining ASME Tanks				x		
CETP 3.2	8	Maintaining DOT Cylinders	x					
CETP 3.3	8	Operating Dispensing Equipment to Fill Containers	x	x				
CETP 3.4	8	Maintaining Bulk Plant Equipment				x		
CETP 3.5	8	Performing Cargo Tank Product Transfers			x			
CETP 3.6	8	Performing Railcar Product Transfers						
CETP 3.7	8	Maintaining DOT Intermodal (IM) Tanks						
CETP 4.1	8	Layout, Design, and Selection of a Vapor Distribution System				x		
CETP 4.2	8	Preparing and Installing Vapor Distribution Systems				x		
CETP 5.0	8	Transfer System Operations			x	x		
CETP 6.0	8	Appliance Installation				x	x	
CETP 7.0	8	Basic Electricity for Propane Appliances				x	x	
CETP 8.0	8	Large Industrial/Commercial Gas-Fired Equipment				x		
PERC GAS Check	8	GAS Check			x	x	x	

Note: The CETP 2.4, 3.6, and 3.7 courses are not accepted by the Commission for continuing education credit.

[1] Credit hours may not equal the total number of course hours.

(C) Certificate holders requesting credit for CETP course attendance shall submit such requests to allow processing time so that a request is finally approved by May 31 in order for the certificate holder to receive credit toward that deadline.

§9.54. Commission-Approved Outside Instructors

(a) General.

(1) AFS may approve and award training or continuing education credit for the management-level and employee-level applicants and certificate holders specified in this section offered by an outside instructor provided the outside instructor complies with the requirements of this section.

(A) Authorized Category D outside instructors may offer only the applicable training and continuing education courses to Category D or K management-level applicants or certificate holders and to service and installation technician and appliance service and installation technician employee-level applicants or certificate holders.

(B) Authorized Category E outside instructors may offer only the applicable training and continuing education courses to Category D or K management-level applicants and to DOT cylinder filler, motor/mobile fuel filler, bobtail driver, service and installation technician, and appliance service and installation technician applicants and employee-level certificate holders.

(C) Authorized Category I outside instructors may offer only the applicable training and continuing education courses to DOT cylinder filler and motor/mobile fuel filler applicants and employee-level certificate holders.

(D) Authorized Category M outside instructors may offer only the applicable training and continuing education courses to Category M management-level applicants and recreational vehicle technician employee-level applicants or certificate holders.

(2) LP-gas companies may offer courses to their own personnel and to other companies' personnel provided that the LP-gas company and the outside instructor comply with the requirements of this section.

(3) All curriculum and course materials submitted for AFS review by an outside instructor applicant shall be printed or typewritten, organized, and easily readable, and shall remain confidential within the limits of Tex. Gov't Code, Chapter 552 (Public Information Act).

(4) Copies of the AFS curricula and materials are available from AFS at a reasonable cost.

(b) Application process. Outside instructor applicants shall submit the following to AFS:

(1) a non-refundable $300 registration fee for each outside instructor;

(2) a copy of the applicant's Category D, E, I, or M current certificate or, in the case of Category D only, a copy of the master or journeyman plumber/class A or B exemption card issued under §9.13 of this title (relating to General Installers and Repairman Exemption);

(3) for each course the outside instructor applicant intends to teach:

(A) the curriculum for and a description of the course;

(B) the course materials and related supporting information or a statement that the instructor will use AFS course materials;

(C) a statement specifying whether the outside instructor seeks approval to certify any AFT described in §9.52 of this title (relating to Training and Continuing Education);

(4) proof that the outside instructor applicant has experience, during at least three of the four years prior to the date of filing the application, in both:

(A) conducting LP-gas training or continuing education courses and

(B) performing or supervising LP-gas activities; and

(5) any other information required by this section.

(c) Curriculum standards. The curriculum for each course that an outside instructor applicant intends to teach shall include, where applicable, information that is at least the equivalent of AFS' course or courses on the same topic or topics, and shall include all applicable current LP-gas regulations for Texas. Courses not offered by AFS may be approved if the courses are equal or greater in overall quality to other approved courses.

(d) AFS review. AFS shall review the application for approval as an outside instructor and, within 14 business days of the filing of the application, shall notify the applicant in writing that the application is approved, denied, or incomplete. If an application is incomplete, AFS' notice of deficiency shall identify the necessary additional information, including any deficiencies in course materials. The outside instructor applicant shall file the necessary additional information within 30 calendar days of the date of AFS' notice of deficiency. The outside instructor applicant's failure to file the necessary additional information within the prescribed time period may result in the dismissal of the outside instructor's application and the necessity of the outside instructor applicant again paying the non-refundable $300 registration fee for each subsequent filing of an application.

(e) Additional requirements for approval. Outside instructor applicants whose applications are approved in writing by AFS shall attend AFS' Train-the-Trainer Course, the fee for which is included in the $300 registration fee. The Train-the-Trainer Course shall include classroom instruction and the subject-matter examinations for each course for which the applicant seeks approval to conduct. An outside instructor applicant shall pass the subject-matter examination for each course with a score of at least 85 percent and shall attend the subject-matter courses for which the applicant seeks approval to conduct.

(f) Notification of approval. Within 10 business days of the outside instructor applicant's completion of the requirements of this section, AFS shall notify the applicant in writing that the applicant is approved as an outside instructor and the outside instructor may then begin offering the approved courses.

(g) Term of approval. AFS approval of an outside instructor remains valid for three years unless the Commission revokes the approval pursuant to subsection (l) of this section.

(h) Renewal of approval. To continue offering AFS-approved LP-gas courses, an outside instructor shall renew his or her AFS outside instructor approval every three years by paying a nonrefundable $150 renewal fee to AFS and attending a Train-the-Trainer refresher course prior to the outside instructor's next renewal deadline.

(i) Revision of course materials.

(1) An outside instructor who revises any course materials previously approved by AFS shall submit the revisions in writing, along with a nonrefundable $100 review fee to AFS.

(2) If AFS revises its course materials, it shall provide a copy to all outside instructors authorized to conduct the course covered by the revised materials. Outside instructors using their own materials shall update their materials to align with the updated AFS material. Copies of the updated materials shall be submitted for review. The revised materials review fee will be waived in this instance.

(3) An outside instructor shall not use materials in a course until the outside instructor has received written AFS approval.

(4) AFS shall review the revised course materials and, within 14 business days, shall notify the outside instructor in writing that the revised course materials are approved or not approved.

(5) If the revised course materials are not approved, AFS' notice shall identify the portion or portions that are not approved and/or shall describe any deficiencies in the revised course materials. The outside instructor shall file any necessary additional information within 30 calendar days of the date of AFS' notice of disapproval. The outside instructor's failure to file the necessary additional information within the prescribed time period may result in the dismissal of the outside instructor's request for approval of revised course materials and the necessity of again paying the $100 review fee for each subsequent filing of revised course materials.

(j) Continuing requirements. Outside instructors shall:

(1) maintain their Category D, E, I, or M certificate or Category D exemption in continuous good standing. The Train-the-Trainer course shall not count as credit towards any training or continuing education requirements. Any interruption of the required Category D, E, I, or M certificate or Category D exemption may result in the Commission revoking or suspending the outside instructor's approval;

(2) adhere to professional standards of conduct in course presentations; and

(3) report to AFS within three business days of the conclusion of a course the names, social security numbers or RRC identification numbers, and any other information required by AFS, of the persons completing the course. The report shall be made electronically. The outside instructor shall ensure that AFS receives the report by securing written acknowledgment of its receipt by AFS.

(k) Disclaimer. Outside instructors are responsible for every aspect of the courses they teach, including the location, schedule, date, time, duration, price, content, material, demeanor and conduct of the outside instructor, and reporting of attendance information. AFS may monitor or supervise the actual course presentations by outside instructors. AFS is not obligated to gather, maintain, or distribute information about outside instructors' course offerings, other than the names, telephone numbers, and addresses of approved outside instructors and the date on which an outside instructor's approval would expire, absent renewal. AFS may refuse to issue or renew a certificate for an individual who presents for credit an unapproved course; a course taught by an unapproved outside instructor; or a course taught using unapproved, incomplete, or incorrect materials.

(l) Complaints.

(1) Complaints regarding outside instructors shall be made to AFS in writing by e-mail, fax, or U. S. Postal Service;

shall include the printed name, address, telephone number, and, if filed by fax or U.S. Postal Service, the signature of the person complaining; shall state the outside instructor's name, the date, location, and title of the course; and shall describe the facts that show the outside instructor:

(A) failed to meet or maintain AFS requirements for outside instructor approval;

(B) failed to deliver a course as approved, including failure to follow the approved curriculum, to use the approved course materials, or to deliver the requisite numbers of hours of instruction; or

(C) engaged in other conduct, including the use of language, that created an atmosphere not conducive to learning. Such conduct includes but is not limited to demeaning, derogating, or stereotyping women or men, disabled persons, members of any political, religious, racial, or ethnic group, or a particular individual, organization, or product.

(2) Upon receipt of a complaint and at its discretion, AFS may gather any additional information necessary or appropriate to making a full and complete analysis of the complaint. AFS shall send a written copy of the analysis and any findings to the outside instructor who is the subject of the complaint. The outside instructor may file a written response within 20 calendar days from the date the findings are postmarked.

(3) If AFS determines that an outside instructor has engaged in conduct prohibited by this section, AFS may prepare a report that states the facts on which the determination is based and the recommendation as to the action AFS intends to take. AFS may issue a written warning to the outside instructor; decline to approve or renew the outside instructor's approval; or revoke the outside instructor's approval.

(4) AFS shall send a written copy of the report and recommendation to the outside instructor and shall include a statement that the outside instructor has a right to a hearing on the determination contained in the report.

(5) Within 20 calendar days after the date the notice is postmarked, the outside instructor shall file a written response either accepting the determination and recommended action or requesting a hearing on the determination.

(6) If the outside instructor accepts the determination, he or she shall notify AFS in writing of the acceptance, and AFS shall take the action indicated in the report.

(7) If an outside instructor requests a hearing or fails to respond timely to the notice given under paragraph (5) of this subsection, the AFS director shall refer the matter to the Hearings Division.

(8) Following the hearing, the Commission may enter an order finding that the outside instructor has violated Commission rules or that no violation has occurred; and may make any other finding based on the evidence in the record.

(9) If the outside instructor does not comply with the order of the Commission, and if the enforcement of the Commission's order is not stayed, then the Office of General Counsel may refer the matter to the attorney general for enforcement of the Commission's order.

SUBCHAPTER B - LP-GAS INSTALLATIONS, CONTAINERS, APPURTENANCES AND EQUIPMENT REQUIREMENTS

§9.101. Filings Required for Stationary LP-Gas Installations

(a) General Requirements. No LP-gas container shall be placed into LP-gas service or an installation operated or used in LP-gas service until the requirements of this section, as applicable, are met and the facility is in compliance with all applicable rules in this chapter and statutes. LP-gas systems under the jurisdiction of DOT Safety regulations in 49 CFR Parts 192 and 199, and Part 40 shall comply with Chapter 8 of this title (relating to Pipeline Safety Regulations) prior to implementation of service.

(b) Commercial installations with an aggregate water capacity of less than 10,000 gallons.

(1) Within 30 calendar days following the completion of a container installation, the licensee shall submit LPG Form 501 to AFS stating:

(A) the installation fully complies with the statutes and rules in this chapter;

(B) all necessary Commission licenses, certificates, and permits have been issued; and

(C) the date the installation has been placed into LP-gas service.

(2) The licensee shall pay a nonrefundable fee of $10 for each LP-gas container, including cylinders, each retail LP-gas cylinder exchange storage rack, and each forklift cylinder exchange rack or a forklift cylinder exchange installation where a storage rack is not installed that is listed on the form. A nonrefundable $35 fee shall be required for any resubmission.

(3) AFS shall review the submitted information within 21 business days of receipt of all required information and shall notify the applicant in writing of any deficiencies. LP-gas activities may commence prior to the submission of LPG Form 501 if the facility is in compliance with the rules in this chapter.

(c) Aggregate water capacity of 10,000 gallons or more.

(1) For installations with an aggregate water capacity of 10,000 gallons or more, the licensee shall submit the following information to AFS at least 30 days prior to construction if the applicant is required to give notice as described in §9.102 of this title (relating to Notice of Stationary LP-Gas Installations):

(A) LPG Form 500;

(B) LPG Form 500A with all applicable documents;

(C) a plat drawing from the appropriate appraisal district identifying:

(i) the facility's property boundaries;

(ii) the names of all real property owners within 500 feet; and

(iii) a 500-foot radius measured from the proposed container location on the site.

(D) a site plan of sufficient scale that identifies:

(i) the location, types, and sizes of all LP-gas containers already on site or proposed to be on site;

(ii) the distances from the containers to adjoining property lines, buildings, and railroad, pipeline, or roadway rights-of-way;

(iii) any known potential hazards;

(iv) location of bulkhead and distance from nearest container;

(v) location of remote emergency shut-off valves;

(vi) route of vehicular traffic around containers;

(vii) location of any electrically operated material handling equipment such as pumps or compressors; and

(viii) distance and location to nearest highway; and

(E) if the facility is accessed from a public highway under the jurisdiction of the Texas Department of Transportation, a statement or permit from the Texas Department of Transportation showing that the driveway is of proper design and construction to allow safe entry and egress of the LP-gas transports; and

(F) a nonrefundable fee of $50 for the initial application, or a nonrefundable $30 fee for any resubmission.

(2) Prior to the installation of any individual LP-gas container, AFS shall determine whether the proposed installation constitutes a danger to the public health, safety, and welfare.

(A) AFS may impose restrictions or conditions on the proposed LP-gas installation based on one or more of the following factors:

(i) nature and density of the population or occupancy of structures within 500 feet of the proposed or existing container locations;

(ii) nature of use of property located within 500 feet of the LP-gas installation;

(iii) nature and volume of vehicular traffic within 500 feet of the proposed container;

(iv) type and number of roadways within 500 feet of the proposed container;

(v) type of activities on the installation's premises;

(vi) potential sources of ignition that might affect an LP-gas leak;

(vii) existence of dangerous or combustible materials in the area that might be affected by an emergency situation;

(viii) any other factors material to the public health, safety, and welfare.

(B) The Commission does not consider public health, safety, and welfare to include such factors as the value of property adjacent to the installation, the esthetics of the proposed installation, or similar considerations.

(3) AFS shall notify the applicant in writing of its findings.

(4) If the application is administratively denied:

(A) AFS shall specify the deficiencies in the written notice required in paragraph (3) of this subsection.

(B) The applicant may modify the submission and resubmit it for approval or request a hearing on the matter in accordance with Chapter 1 of this title (relating to Practice and Procedure).

(5) The licensee shall not commence construction until notice of approval is received from AFS. If the subject installation is not completed within one year from the date AFS has granted construction approval, the application will expire and the applicant shall submit a new application before the installation can be completed.

(6) The applicant shall submit to AFS written notice of completed construction and the Commission shall complete the field inspection specified in §9.109 of this title (relating to Physical Inspection of Stationary LP-Gas Installations).

(7) The container may be placed into service after AFS has completed the inspection and determines the installation meets all safety requirements.

(8) An applicant or operator shall not be required to submit LPG Form 500, LPG Form 500A, or a site plan prior to the installation of bulkheads, swivel-type piping, breakaway devices, pneumatically-operated internal valves, or emergency shutoff valves, or when maintenance and improvements are being made to the piping system at an existing LP-gas installation with an aggregate water capacity of 10,000 gallons or more.

(9) If a licensee is replacing a container with a container of the same or less overall diameter and length or height, and is installing the replacement container in the identical location of the existing container, the licensee shall file LPG Form 500.

(d) AFS may request LPG Form 8, a Manufacturer's Data Report, or any other documentation or information pertinent to the installation in order to determine compliance with the rules in this chapter.

(e) For an installation that is a licensee outlet, the operating licensee shall comply with §9.7(g) of this title (relating to Applications for Licenses, Manufacturer Registrations, and Renewals).

§9.102. Notice of Stationary LP-Gas Installations

(a) For a proposed installation with an aggregate water capacity of 10,000 gallons or more, an applicant shall send a copy of the filings required under §9.101(c) of this title (relating to Filings Required for Stationary LP-Gas Installations) by certified mail, return receipt requested or otherwise delivered, to all owners of real property situated within 500 feet of any proposed container location at the same time the originals are filed with AFS.

(1) AFS shall consider the notice to be sufficient when the applicant has provided evidence that copies of a complete application have been mailed or otherwise delivered to all real property owners.

(2) The applicant may obtain names and addresses of owners from current county tax rolls.

(b) An applicant shall notify owners of real property situated within 500 feet of any proposed container location if:

(1) the current aggregate water capacity of the installation is more than doubled in a 12-month period;

(2) the resulting aggregate water capacity of the installation will be more than 120,000 gallons; or

(3) AFS considers notice to be in the public interest.

(c) An applicant shall not be required to give notice for installations at “hot-mix” plants where LP-gas containers of 10,000 gallons aggregate water capacity or more are used as fuel storage supply for asphalt heating provided that:

(1) the applicant submits proof that such “hot-mix” operations will not exceed two years at the specified location; and

(2) the applicant has obtained approval from the fire marshal if the operations are within a city’s limits or extraterritorial jurisdiction.

§9.103. Objections to Proposed Stationary LP-Gas Installations

(a) Each owner of real property receiving notice of a proposed installation pursuant to §9.102(a) of this title (relating to Notice of Stationary LP-Gas Installations) shall have 18 calendar days from the date the notice is postmarked to file a written objection with AFS using the LPG Form 500A sent to them by the applicant. An objection is considered timely filed when it is actually received by the Commission.

(b) AFS shall review all objections within 10 business days of receipt. An objection shall be in writing and shall include a statement of facts showing that the proposed installation:

(1) does not comply with the rules in this chapter, specifying which rules are violated;

(2) does not comply with the statutes of the State of Texas, specifying which statutes are violated; or

(3) constitutes a danger to the public health, safety, and welfare, specifying the exact nature of the danger. For purposes of this section, "danger" means an imminent threat or an unreasonable risk of bodily harm, but does not mean diminished property or esthetic values in the area.

(c) Upon review of the objection, AFS shall:

(1) request a public hearing as specified in §9.107 of this title (relating to Hearings on Stationary LP-Gas Installations); or

(2) notify the objecting party in writing within 10 business days of receipt requesting further information for clarification and stating why the objection is not valid. The objecting entity shall have 10 calendar days from the postmark of AFS' letter to file its corrected objection. Clarification of incomplete or nonsubstantive objections shall be limited to two opportunities. If new objections are raised in the objecting party's clarification, the new objections shall be limited to one notice of correction.

§9.107. Hearings on Stationary LP-Gas Installations

(a) Reason for hearing. AFS shall request a public hearing if:

(1) the notice given to each real property owner situated within 500 feet of the proposed installation does not meet the requirements set forth in §9.102(a) of this title (relating to Notice of Stationary LP-Gas Installations);

(2) AFS receives an objection that complies with §9.103 of this title (relating to Objections to Proposed Stationary LP-Gas Installations); or

(3) AFS determines that a hearing is necessary to investigate the impact of the installation.

(b) Notice of public hearing. The Hearings Division shall give notice of the public hearing at least 21 calendar days prior to the date of the hearing to the applicant and to all real property owners who were required to receive notice of the proposed installation under §9.102 of this title.

(c) Procedure at hearing. The public hearing shall be conducted pursuant to Chapter 1 of this title (relating to Practice and Procedure).

§9.108. Interim Approval Order for Stationary LP-Gas Installations

If the Commission finds after a public hearing that the proposed installation complies with the rules in this chapter and the statutes of the State of Texas, and does not constitute a danger to the public health, safety, and welfare, the Commission shall issue an interim approval order. The construction of the installation and the setting of the container shall not proceed until the applicant has received written notification of the interim approval order. Any interim approval order shall include a provision that such approval may be suspended or revoked if:

(1) the applicant has introduced LP-gas into the system prior to final approval;

(2) a physical inspection of the installation indicates that it is not installed in compliance with the submitted plan

drawing for the installation, the rules in this chapter or the statutes of the State of Texas; or

(3) the installation constitutes a danger to the public health, safety, and welfare.

§9.109. Physical Inspection of Stationary LP-Gas Installations

(a) Aggregate water capacity of 10,000 gallons or more. The applicant shall notify AFS in writing when the installation is ready for inspection.

(1) If any non-compliance items are cited at the time of AFS' initial inspection, the installation shall not be placed in LP-gas service until the non-compliance items are corrected, as determined at the time of inspection depending on the nature of the non-compliance items cited.

(2) If AFS does not physically inspect the facility within 30 calendar days of receipt of notice that the facility is ready for inspection, the facility may operate conditionally until the initial inspection is completed.

(b) Aggregate water capacity of less than 10,000 gallons. After receipt of LPG Form 501, AFS shall conduct an inspection as soon as possible to verify that the installation described is in compliance with the rules in this chapter. The facility may be operated prior to inspection if it is in compliance with the rules in this chapter. If the initial inspection at a commercial installation results in the citation of non-compliance items, AFS may require that the subject container, including any piping, appliances, appurtenances, or equipment connected to it, be immediately removed from LP-gas service until the non-compliance items are corrected.

(c) Material variances. If AFS determines the completed installation varies materially from the application originally accepted, correction of the variance and notification to AFS or resubmission of the application is required. The review of such resubmitted application shall comply with §9.101 of this title (relating to Filings Required for Stationary LP-Gas Installations).

(d) In the event an applicant has requested an inspection and AFS' inspection identifies non-compliance items requiring modifications by the applicant, AFS shall consider the assessment of an inspection fee to cover the costs associated with any additional inspection, including mileage and per diem rates set by the legislature.

§9.110. Emergency Use of Proposed Stationary LP-Gas Installations

When there is an immediate need for LP-gas supply under emergency circumstances, AFS may waive the requirement for the initial inspection for a limited time period in order to meet the emergency need. LP-gas shall not be introduced into the container and it shall not be placed into LP-gas service until AFS grants permission to do so.

§9.113. Installation and Maintenance

In addition to NFPA 58 §6.21.1, all LP-gas storage containers, valves, dispensers, accessories, piping, transfer equipment, gas utilization equipment, and appliances shall be installed and maintained in safe working order and in accordance with the manufacturer's instructions and the rules in this chapter. If any one of the LP-gas storage containers, valves, dispensers, accessories, piping, transfer equipment, gas utilization equipment, and appliances is not in safe working

order, AFS may require that the installation be immediately removed from LP-gas service and not be operated until the necessary repairs have been made.

§9.114. Odorizing and Reports

(a) Odorization shall comply with NFPA 58, §4.2.

(b) If AFS determines that there may be insufficient odorization, AFS may require testing. If testing is deemed necessary, AFS shall notify the necessary parties in writing as soon as possible. The written notification will advise which entity is responsible for having the tests performed and paying for the tests to be conducted. The testing shall be performed by a recognized testing laboratory equipped for and experienced in testing of odorization and, if requested, a copy of the test results shall be provided to AFS.

(c) The person or facility odorizing the gas or the operator of an automatic loading rack shall be responsible for the odorization.

§9.115. Examination and Testing of Containers

(a) In order to determine the safety of a container, AFS may require that the licensee or operator of the container submit a copy of the manufacturer's data report on that container. AFS may also require that the container and equipment be examined by a Category A, B, or O licensee, with a comprehensive report on the findings submitted to AFS for its consideration. This subsection may be applied even though an acceptable LPG Form 23 has been received.

(b) Any stationary ASME LP-gas container previously in LP-gas service which has not been subject to continuous LP-gas vapor pressure shall be retested by an authorized Category A, B, or O licensed entity utilizing recognized ASME test methods to determine if the container is safe for LP-gas use in Texas, and the test results shall be submitted to AFS on LPG Form 8.

(c) Any stationary ASME LP-gas container which has been subject to continuous LP-gas vapor pressure is not required to be tested prior to installation, provided the licensee or operator of the container files a completed LPG Form 23 with AFS at the time LPG Form 500 is submitted for any facility requiring submission of a site plan in accordance with §9.101 of this title (relating to Filings Required for Stationary LP-Gas Installations).

(d) Any stationary ASME LP-gas container brought into Texas from out-of-state and intended for stationary LP-gas installation in Texas at any facility requiring submission of a site plan shall be tested in accordance with subsection (b) of this section prior to review approval being granted by AFS, unless that container is owned by a valid licensee. In this case, AFS may determine that such tests are not necessary upon the receipt of an acceptable LPG Form 23 from the licensee.

§9.116. Container Corrosion Protection System

(a) In addition to NFPA 58 §§5.2.1.11, 6.8.6.1(I), 6.8.6.2(A), 6.8.6.3(F), 6.11.3.14 and 6.19.2 steel containers and steel piping systems installed underground, partially underground, or as mounded installations on or after March 1, 2014, shall include a corrosion protection system.

(b) Cathodic protection systems installed on or after March 1, 2014 shall be monitored by every licensee servicing the container in accordance with NFPA 58, §6.19.3.1 through 6.19.3.3. Such licensees shall document the test results.

(c) The licensee shall retain documentation of test results in accordance with §9.4 of this title (relating to Records).

(d) Steel containers and piping systems installed underground, partially underground, or as mounded installations on or after March 1, 2014, shall not be filled unless a cathodic protection system is installed in accordance with this section.

§9.126. Appurtenances and Equipment

(a) All appurtenances and equipment placed into LP-gas service shall be listed by a nationally recognized testing laboratory such as Underwriters Laboratory (UL), Factory Mutual (FM), or American Gas Association (AGA) unless:

(1) it is specifically prohibited for use by another section of the rules in this chapter;

(2) there is no test specification or procedure developed by the testing laboratory for the appurtenance or equipment; or

(3) it is used and in compliance with any NFPA standard adopted by the Commission.

(b) Appurtenances and equipment that cannot be listed but are not prohibited for use by the rules in this chapter or the manufacturer's instructions shall be acceptable for LP-gas service, provided the appurtenances and equipment are installed in compliance with the applicable rules in this chapter.

(c) The licensee or operator of the appurtenances or the equipment shall maintain documentation sufficient to substantiate any claims regarding the safety of any valves, fittings, and equipment and shall, upon request, furnish copies to AFS.

(d) ASME containers with an individual water capacity over 4,000 gallons shall comply with paragraph (1) or (2) of this subsection:

(1) For container openings 1 1/4-inch or greater in size:

(A) the container shall be equipped with:

(i) a pneumatically operated internal valve equipped for remote closure and automatic shutoff using thermal (fire) actuation where the thermal element is located within five feet (1.5 meters) of the internal valve;

(ii) a double back flow check filler valve: or

(iii) a positive shutoff valve in combination with a back flow check valve:

(B) Any vapor or liquid withdrawal opening 1 1/4-inch or larger with piping attached that exclusively provides service to stationary appliances or equipment and which is not part of a transfer system may be equipped with an excess flow valve and a shutoff valve installed as close as practical to the container in lieu of an internal valve or emergency shutoff valve;

(C) For reducing the size of a container opening, only one bushing with a minimum pressure rating in accordance with NFPA 58 Table 5.11.4.2 shall be installed;

(D) Container openings that are not compatible with internal valves shall be permitted to utilize both an excess-flow valve installed in the container and an emergency shutoff valve or a valve complying with API 607, Fire Test Soft-Seated for Quarter Turn Ball Valves Equipped with Non-Metallic Seats, which shall be pneumatically actuated and shall fail in the closed position.

(2) For container openings less than 1 1/4-inch in size, the container shall be equipped with:

(A) a positive shutoff valve that is located as close to the container as practical in combination with either an excess-flow valve or a back flow check valve installed in the container;

(B) a pneumatically operated internal valve with an integral excess-flow valve or excess-flow protection; or

(C) a double back flow check filler valve.

§9.129. Manufacturer's Nameplate and Markings on ASME Containers

(a) LP-gas shall not be introduced into an ASME container unless the container is equipped with an original nameplate or at least one of the nameplates defined in this subsection permanently attached to the container.

(1) Commission identification nameplate--A nameplate issued under the procedures specified in §9.130 of this title (relating to Commission Identification Nameplates) and attached by an authorized representative of the Commission for the purpose of identifying an ASME stationary container when the original nameplate is lost or illegible.

(2) Duplicate nameplate--An additional ASME container nameplate issued by the original manufacturer with duplicate information as the original nameplate and clearly marked as a duplicate nameplate, but installed in a remote location.

(3) Modification (or alteration) nameplate--A nameplate issued and affixed by an ASME Code facility including only partial information applicable to a modification or alteration performed on that container.

(4) Replacement nameplate--A nameplate including the identical information as the original nameplate and identified as a replacement nameplate, but issued and affixed by the original manufacturer or its successor company or companies when the original nameplate is lost or illegible.

(b) Nameplate thickness for stainless steel nameplates issued on or after September 1, 1984, shall be sufficient to resist distortion due to the application of markings and fusion welding.

(c) Nameplates shall be attached in a location that will remain visible after installation of the containers.

(d) Nameplates on stationary ASME containers built prior to September 1, 1984, shall include at least the following legible information:

(1) the name of container manufacturer;

(2) the manufacturer's serial number;

(3) the container's working pressure;

(4) the container's water capacity; and

(5) the ASME Code symbol

(e) Nameplates on stationary ASME containers built on or after September 1, 1984, shall be stainless steel and permanently attached to the container by continuous fusion welding around the perimeter of the nameplate, and shall be stamped or etched with the information required by NFPA 58, §5.2.8.3(C) and §11.3.4(B) in characters at least 5/32 inch high.

(f) Any replacement nameplate issued by an original container manufacturer for containers constructed prior to September 1, 1984, shall be stainless steel and shall be affixed in accordance with ASME Code. The owner or operator of the container shall ensure that a copy of LPG Form 8 is filed with AFS when a replacement nameplate is affixed.

(g) Nameplates on LP-gas motor or mobile fuel tanks shall be permanently attached in a manner which will minimize corrosion of the nameplate or its fastening means and not contribute to corrosion of the container. If the nameplate is not continuously welded to the container, then it shall be raised at least 1/4 inch but no more than 1/2 inch from the container's surface.

(h) In addition to a container nameplate, underground containers shall have a system nameplate permanently attached to the system in a location that will be readily accessible for inspection when the containers are buried. Where the container is buried, mounded, insulated, or otherwise covered so the nameplate is obscured, a duplicate nameplate shall be installed in a clearly visible and accessible location.

(i) AFS may remove a container from LP-gas service or require ASME acceptance of a container at any time if AFS determines that the nameplate, in any form defined in subsection (a)(1) - (4) of this section, is loose, unreadable, or detached, or if it appears to be tampered with or damaged in any way and does not contain at a minimum the items defined in subsection (d) of this section.

§9.130. Commission Identification Nameplates

(a) Prior to an original ASME nameplate or any manufacturer-issued nameplate becoming unreadable or detached from a stationary container with a water capacity of 4,001 gallons or more, the owner or operator of the container may request an identification nameplate from AFS. Commission identification nameplates shall be issued only for containers which can be documented as being in continuous LP-gas service in Texas from a date prior to September 1, 1984. The container's serial number and manufacturer on the original or manufacturer-issued nameplate shall be clearly readable at the time the Commission identification nameplate is attached.

(1) The owner or operator of the container shall submit LPG Form 502 including clear photographs of the container showing:

(A) nozzle openings;

(B) front, rear, and side views;

(C) location of the nameplate;

(D) detailed view of the nameplate; and

(E) if a photograph cannot clearly depict the lettering on the nameplate, a pencil rubbing of the nameplate shall be submitted.

(2) AFS shall review LPG Form 502 and the supporting documentation. AFS shall have the manufacturer's data report on file for the container or the licensee shall provide a copy to LP-Gas Operations. The Commission identification nameplate shall not be issued unless the manufacturer's data report is reviewed. Upon review of submitted documents and confirmation of the manufacturer's data report, LP-Gas Operations shall mail a letter to the owner or operator of the container stating the estimated costs, which will be based on the following:

(A) actual cost of the nameplate itself, including adhesive and other materials necessary to attach the nameplate; and

(B) projected travel costs for the Commission employee performing the inspection and/or attachment of the nameplate, at a cost of $60 plus the mileage and rate from Austin as set by the official state travel mileage chart.

(3) The owner or operator of the container shall pay the total estimated costs to AFS before AFS will proceed. Within 15 business days of receipt of all required documents and fees, AFS shall:

(A) verify that it has continuous documentation for the container, showing the container in LP-gas service in Texas prior to September 1, 1984;

(B) inspect the container to ensure that the container is not dented, pitted, or otherwise damaged, and complies with other applicable rules in this chapter, unless additional time is necessary as determined by the AFS director; and

(C) advise the owner or operator that the container shall be tested if it appears to be pitted or otherwise damaged.

(i) If the owner or operator refuses to test the container, it shall be removed from service within 10 calendar days of the date of inspection.

(ii) If the container passes the test, AFS shall proceed with the attachment of the nameplate.

(D) Within the 15-day period, AFS shall notify the applicant in writing, in clear and specific language, of the outcome of AFS' review.

(4) Following AFS' review of any required tests and payment, and if AFS determines that all requirements have been met, AFS shall issue an identification nameplate for the container.

(5) The Commission identification nameplate shall be stainless steel, stamped or etched with the Commission's mark or symbol, and attached by a Commission employee using an adhesive material. Nameplates shall include the wording and information as follows:

(A) Railroad Commission of Texas LP-Gas Container Identification Nameplate;

(B) RRC ID No. *00000*; and

(C) For Identification Only.

(6) Commission identification nameplates shall be affixed only by a Commission employee and shall be affixed at the Commission's convenience.

(b) Commission identification nameplates shall serve only to identify the container as being an ASME container and shall in no way indicate the condition of the container or whether it is safe for LP-gas service.

(c) Commission identification nameplates shall not be valid until AFS has received the final paperwork from the Commission employee who attached the nameplate. AFS shall notify the owner or operator of the container in writing stating the date on which the nameplate is valid.

(d) If at any time during the Commission identification nameplate request or approval process, the original ASME nameplate becomes completely unreadable or detached, the owner or operator of the container shall immediately remove the container from service and no Commission identification nameplate shall be issued or attached. In addition, AFS may remove such a container from service as specified in §9.129(i) of this title (relating to Manufacturer's Nameplate and Markings on ASME Containers).

(e) If the Commission employee finds upon inspection of a container prior to the attachment of the Commission identification nameplate that the container does not pass inspection, for whatever reason, the inspector shall not attach the nameplate, but shall return the nameplate and all paperwork to the Commission's Austin office.

(f) Fees charged for the Commission identification nameplate are nonrefundable except as described in this subsection. The cost of the nameplate is refundable only if the Commission employee finds upon actual inspection of the container that the original nameplate has become totally detached or unreadable, or that the container is pitted, dented, or otherwise damaged, therefore prohibiting attachment of the nameplate. The fees charged relating to AFS' travel and research costs will be refunded only if AFS' research shows that the nameplate cannot be issued. Otherwise, these fees will be nonrefundable if these activities have taken place before the Commission employee inspects a container and finds that a nameplate cannot be issued.

§9.131. 200 PSIG Working Pressure Stationary Vessels

In addition to NFPA 58, §5.2.4.2 and 5.9.2.5(A), 200 psig working pressure stationary vessels in LP-gas service in Texas prior to September 1, 1981, may be continued in service for commercial propane provided that they are fitted with pressure relief valves set for 250 psig normal start to discharge and comply with other provisions of this chapter. For the purpose of this section, "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100 degrees Fahrenheit. This section does not apply to LP-gas motor fuel and mobile fuel containers.

§9.132. Sales to Unlicensed Individuals

A licensee shall not sell LP-gas, an ASME container, or a DOT cylinder greater than 96 pounds to an unlicensed individual for resale. A licensee shall not sell an LP-gas container to an unlicensed individual for installation without determining that such container will be installed by a licensee authorized to perform such installation.

§9.134. Connecting Container to Piping

LP-gas piping shall be installed only by a licensee authorized to perform such installation, a registrant authorized by §9.13 of this title (relating to General Installers and Repairman Exemption), or an individual exempted from licensing as authorized by Texas Natural Resources Code, §113.081. A licensee shall not connect an LP-gas container or cylinder to a piping installation made by a person who is not licensed to make such installation, except that connection may be made to piping installed by an individual on that individual's single family residential home. A licensee may connect to piping installed by an unlicensed person provided the licensee has verified that the piping is free of leaks and has been installed according to the rules of this chapter, and filed with AFS a completed LPG Form 22, identifying the unlicensed person who installed the LP-gas piping.

§9.135. Unsafe or Unapproved Containers, Cylinders, or Piping

In addition to NFPA 58, §§5.2.1.1 and 5.2.2, a licensee or the licensee's employees shall not introduce LP-gas into any container or cylinder if the licensee or employee has knowledge or reason to believe that such container, cylinder, piping, or the system or the appliance to which it is attached is unsafe or is not installed in accordance with the statutes or the rules in this chapter.

§9.136. Filling of DOT Containers

(a) In addition to NFPA 58 §7.4.2.1, single-opening DOT containers of less than 101 pounds LP-gas capacity shall be filled by weight only. The weight of such containers shall be determined by scales that meet the specifications of the National Institute of Standards and Technology's Handbook 44. Scales at licensees' facilities shall be currently registered with the Texas Department of Agriculture. The scales shall have a rated weighing capacity which exceeds the total weight of the cylinders being filled. The scales shall be accurate during the filling of the cylinder. The formula for filling LP-gas containers by weight under this section is as follows:

(1) The propane capacity in pounds is determined by multiplying the total water capacity in pounds by .42.

(2) The proper scale setting is the total of the tare weight of the cylinder, the propane capacity in pounds, and the weight of the hose and nozzle.

(b) Containers designed to be used on forklifts or industrial trucks shall be filled as specified in NFPA 58, §11.13.

§9.137. Inspection of Containers at Each Filling

In addition to NFPA 58, §§5.2.1.1, 7.2.2.16, and 5.2.2, before filling a container or cylinder, the individual filling the

container or cylinder shall conduct a visual inspection of the exposed, readily accessible areas of the container or cylinder for any obvious defects. Where the container or cylinder is dented, bulged, gouged, or corroded such that the integrity of the container or cylinder is substantially reduced, such container or cylinder shall not be filled.

§9.140. System Protection Requirements

(a) Stationary LP-gas installations, including LP-gas transfer systems, dispensing systems, and storage containers, shall be protected from tampering and damage as specified in this section.

(b) LP-gas storage containers located on a rural consumer's property from which motor or mobile fuel containers are filled are not required to comply with the fencing and vehicular barrier protection requirements in subsections (c) and (d) of this section.

(c) In addition to NFPA 58, §§6.21.4.2, 6.22.3.2(3), 6.27.3.7, 8.2.1.1, and 6.5.4.5, fencing at LP-gas installations shall comply with the following:

(1) Uprights, braces, and cornerposts of the fence shall be composed of noncombustible material.

(2) Gates in fences where bulkheads are installed shall be located directly in front of the bulkhead. Gates shall be locked whenever the area enclosed is unattended. Gate posts on gates installed directly in front of the bulkhead shall be located at 45-degree angles to the nearest corner of the bulkhead.

(3) ASME containers or manual dispensers originally manufactured to or modified to be considered by AFS as self-contained units. Self-contained units shall be protected as specified in subsection (d) of this section.

(4) LP-gas containers located at a private residence are exempt from the fencing requirements.

(d) In addition to NFPA 58, §§6.8.1.2, 6.8.6.1(A)-(E), 6.8.6.2(F), 6.27.3.13, and 6.27.3.14, vehicular barrier protection at LP-gas installations, except as noted in this section, shall comply with the following:

(1) Vertical supports for vehicular barrier protection shall be at least three-inch schedule 40 steel pipe or other material with equal or greater strength. The vertical supports shall be capped on the top or otherwise protected to prevent the entrance of water or debris; anchored in concrete at least 18 inches below the ground; and rise at least 30 inches above the ground. Supports shall be spaced four feet apart or less.

(2) The horizontal guardrailing for vehicular barrier protection shall be secured to the top of the vertical supports at least 30 inches above the ground. The railing shall be at least three-inch schedule 40 steel pipe or other material with equal or greater strength. The railing shall be capped on the ends or otherwise protected to prevent the entrance of water or debris; and welded or bolted to the vertical supports with bolts of sufficient size and strength to prevent damage to the protected equipment under normal conditions, including the nature of the traffic to which the protected equipment is subjected.

(3) Openings in horizontal guardrailing, except the opening that is permitted directly in front of a bulkhead, shall not exceed three feet. Only one opening is allowed on each side of the guardrailing. A means of temporarily removing the horizontal guardrailing and vertical supports to facilitate the handling of heavy equipment may be incorporated

into the horizontal guardrailing and vertical supports. In no case shall the protection provided by the horizontal guardrailing and vertical supports be decreased. Transfer hoses from the bulkhead shall be routed only through the 45-degree opening in front of the bulkhead or over the horizontal guardrailing.

(4) Clearance of at least three feet shall be maintained between the vehicular barrier protection and any part of an LP-gas transfer system or container or clearance of two feet for retail service station installations. The two vertical supports at the ends of any vehicular barrier protection which protects a bulkhead shall be located a minimum of 24 and a maximum of 36 inches at 45-degree angles to the nearest corner of the bulkhead.

(5) Vehicular barrier protection shall extend at least three feet beyond any part of the LP-gas transfer system or container which is exposed to collision damage or vehicular traffic.

(6) Installations which have highway barriers located between vehicular traffic and the container and material handling equipment shall not be required to have vehicular barrier protection installed.

(e) If exceptional circumstances exist or will exist at an installation which would require additional protection such as larger-diameter horizontal railing, then the licensee or operator shall install such additional protection. In addition, AFS at its own discretion may require an installation to be protected with added safeguards to adequately protect the health, safety, and welfare of the general public. AFS shall notify the person in writing of the additional protection needed and shall establish a reasonable time period during which the additional protection shall be installed. The licensee shall ensure that any necessary extra protection is installed. If a person owning or operating such an installation disagrees with AFS' determination made under this subsection, that person may request a public hearing on the matter. The installation shall either be protected in the manner prescribed by AFS or removed from service with all product withdrawn from it until AFS' final decision.

(f) In addition to NFPA 58 §5.2.8.1, LP-gas installations shall comply with the sign and lettering requirements specified in Table 1 of this subsection. An asterisk indicates that the requirement applies to the equipment or location listed in that column.

(1) Unless colors are specified, lettering shall be in a color that sharply contrasts to the background color of the sign, and shall be readily visible to the public.

(2) Items 1, 2, and 3 in Table 1 may be combined on one sign.

(3) Items 1, 2, and 3 in the column entitled "Licensee or Non-Licensee ASME 4001+ Gal. A.W.C." in Table 1 apply to installations with 4,001 gallons or more aggregate water capacity protected only by guardrailing as required in subsection (d) of this section, and bulkheads as required by §9.143 of this title (relating to Piping and Valve Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More) for commercial, bulk storage, cylinder filling, or forklift installations.

(4) Item 11 in the column entitled "Requirements" in Table 1 applies to facilities which have two or more containers.

(5) Item 13 in the column entitled "Requirements" in Table 1 applies to outlets where an LP-gas certified employee is responsible for the LP-gas activities at that outlet, when a licensee's employee is the operations supervisor at more than one outlet as required by §9.17(a) of this title (relating to Designation and Responsibilities of Company Representative and Operations Supervisor).

(6) Any information in Table 1 of this subsection required for an underground container shall be mounted on a sign

posted within 15 feet horizontally of the manway or the container shroud.

(7) Licensees and non-licensees shall comply with operational and/or procedural actions specified by the signage requirements of this section.

(8) Any 24-hour emergency telephone numbers shall be:

(A) monitored at all times; and

(B) be answered by a person who is knowledgeable of the hazards of LP-gas and who has comprehensive LP-gas emergency response and incident information, or has immediate access to a person who possesses such knowledge and information. A telephone number that requires a call back (such as an answering service, answering machine, or beeper device) does not meet the requirements of this section.

Figure: 16 TAC §9.140(f)
§9.140. Uniform Protection Standards -- Table 1 (Revised February 2008)

Requirements	Self-service Dispenser Area	Storage Racks for DOT Portable or Forklift Containers	Licensee or Non-Licensee ASME 4001+ Gal. A.W.C.	Any Licensee Installation (DOT Container Filling and/or Service Station Only)
1. Red letters at least 2" high (or at least 1 1/4" high for storage racks for DOT portable or forklift cylinders) on white or aluminum background: NO SMOKING	*	*	*	*
2. Red letters at least 4" high on white or aluminum background: WARNING FLAMMABLE GAS			*	
3. Black letters at least 4" high: NO TRESPASSING AUTHORIZED PERSONNEL ONLY			*	
4. Letters at least 1/2" high: EXTINGUISH ALL PILOT LIGHTS AND OPEN FLAMES; VEHICLE MUST BE VACATED DURING FILLING PROCESS; TURN OFF ENGINE	*			*
5. Letters at least 2" high on each operating side of the dispenser: PROPANE	*			
6. Block letters at least 2" high on a background of contrasting color to the letters, including instructions on activation and visible from the point of transfer: PROPANE (or LP-GAS) EMERGENCY SHUTOFF	*		*	*
7. Letters at least 4" high on container or 1 1/4" high on cylinder exchange or storage rack indicating contents: LP-GAS or BUTANE or PROPANE and FLAMMABLE		*	*	*
8. Letters at least 4" high on a background of contrasting color to the letters, marked on both sides or both ends of any container holding unodorized gas: NOT ODORIZED			*	*
9. Letters at least 4" high: Name of Licensee (not required for non-licensee installations)			*	*
10. Letters at least 2" high on operating end of container: W.P. ___, WORKING PRESSURE ____, or WORK PRESS. ____			*	*

11. If more than one container, letters at least 2" high on operating end of each container: CONTAINER NO. ____ or TANK NO. _____			*	*
12. Letters at least 2" high on a background of contrasting color, readily visible to the public, stating: 24-Hour Emergency Number _____ (not required at non-licensee installations)	*	*	*	*
13. Lettering at least 3/4" high with the telephone number of the certified employee responsible for the outlet, and/or the operations supervisor, on a background of contrasting color, readily visible to the public (not required at non-licensee installations)	*		*	*

(g) In addition to NFPA 58, §8.4.2.2, storage racks used to store nominal 20-pound DOT portable or any size forklift containers shall be protected against vehicular damage by:

(1) meeting the guardrail requirements of subsection (d) of this section; or

(2) installing guard posts, provided the guard posts are installed a minimum of 18 inches from each storage rack, and;

(A) consist of at least three-inch schedule 40 steel pipe, capped on top or otherwise protected to prevent the entrance of water or debris into the guard post, no more than four feet apart, and anchored in concrete at least 30 inches below ground and rising at least 30 inches above the ground; or

(B) are constructed of at least four-inch schedule 40 steel pipe capped on top or otherwise protected to prevent the entrance of water or debris into the guard post, and attached by welding to a minimum 8-inch by 8-inch steel plate at least 1/2 inch thick. The guard posts and steel plate shall be permanently installed and securely anchored to a concrete driveway or concrete parking area.

(3) Guardrail or guard posts are not required to be installed if:

(A) the cylinder storage rack is located a minimum of 48 inches behind a concrete curb or concrete wheel stop that is a minimum of five inches in height above the grade of the driveway or parking area; or

(B) if the requirements of subparagraph (A) of this paragraph cannot be met, the cylinder storage rack must be installed a minimum of 48 inches behind a concrete curb or concrete wheel stop that is a minimum of four inches in height above the grade of the driveway or parking area, and a concrete wheel stop at least four inches in height must be installed at least 12 inches from the curb or first wheel stop;

(4) All parking wheel stops and cylinder storage racks in paragraph (3) of this subsection must be secured against displacement.

(h) Self-service dispensers shall be protected against vehicular damage by:

(1) vehicular barrier protection that complies with subsection (d) of this section; or

(2) vertical supports that comply with subsection (d) of this section; or

(3) where routine traffic patterns expose only the approach end of the dispenser to vehicular damage, support columns, concrete barriers, bollards, inverted U-shaped guard posts anchored in concrete, or other protection acceptable to AFS, provided:

(A) such protection extends beyond the framework of the dispenser; and

(B) at least 24 inches of clearance is maintained between the approach end of the dispenser and the protective barrier.

(i) Self-service dispensers utilizing protection specified in paragraphs (2)-(3) of subsection (h) of this section shall be connected to supply piping by a device designed to prevent the loss of LP-gas in the event the dispenser is displaced. The device must retain liquid on both sides of the breakaway point and be installed in a manner to protect the supply piping against damage.

§9.141. Uniform Safety Requirements

(a) In addition to NFPA 58, §6.8.1.4, containers shall be painted as follows:

(1) ASME containers, except vaporizers, shall be painted white or aluminum, or any other heat-reflective color (such as light green, light blue, etc.). Darker, heat-absorbing colors (such as black, navy blue, etc.) shall not be permitted.

(2) If AFS disapproves of a certain color, the licensee or ultimate consumer shall provide to AFS information from the container or paint manufacturer stating specific reasons why the color is heat-reflective and should be approved. The AFS director shall make the final determination and shall notify the licensee or ultimate consumer.

(b) In addition to NFPA 58, §6.27.4.2, each LP-gas private or public motor/mobile or forklift refueling installation which includes a liquid dispensing system shall incorporate into that dispensing system a breakaway device.

(1) Any vapor return hose installed at such installations shall also be equipped with a breakaway device.

(2) LP-gas installations at which forklift cylinders are completely removed from the forklift before being filled are not required to have a breakaway device.

(c) Any ball-type shutoff valve less than two inches in size shall have a locking handle. If a ball-type shutoff valve of any size has a locking handle installed at the terminal end of the hose, the main liquid and/or vapor valves or main shutoff valves on the stationary container at an attended installation may remain open as long as the locking handle on the transfer hose remains locked until the transfer hose is properly connected. If a ball-type shutoff valve two inches or larger in size does not have a locking handle, the main liquid and/or vapor valves or main shutoff valves on the stationary container shall remain closed at all times and shall not be opened until the transfer hose is properly connected or disconnected.

(d) A retail operated service station installation shall be equipped with a pump.

(e) In addition to NFPA 58, §5.2.8.1, all containers shall be numbered in accordance with the requirements set forth in Table 1 of §9.140 of this title (relating to System Protection Requirements).

(f) In addition to NFPA 58, §6.5.4.1, no canopies or coverings are allowed over any stationary ASME container of 125 gallons or more or over loading and unloading areas where LP-gas transport transfer operations are performed. Non-combustible wind breaks and other weather protection may be installed in accordance with NFPA 58 §6.7.1.1 and §6.25.3.3 to provide employees and customers protection against the elements of weather, but shall not be installed over any portion of an LP-gas container.

(g) Any container that may have contained product other than LP-gas shall be thoroughly cleaned and purged prior to introducing LP-gas into such container. Only grades of LP-gas determined to be noncorrosive may be introduced into any container. LP-gas may not contain anhydrous ammonia, hydrogen sulfide, or any other contaminant.

(1) If it is known or suspected that the LP-gas has been or may be contaminated, the person responsible for the contamination shall have one or more of the tests contained in "Liquefied Petroleum Gas Specifications for Test Methods, Gas Processors Association (GPA) 2140" performed by a testing laboratory or individual qualified to perform the tests. AFS may request information necessary to determine the qualification of any testing laboratory or individual.

(2) The results of the tests shall certify whether the LP-gas is contaminated or corrosive, whether the use of the LP-gas in the containers will damage either the stationary or non-stationary containers or the container valves, fittings, or appurtenances, or whether the contaminated product or container or container valves, fittings, or appurtenance will endanger the health, safety, and welfare of the general public.

(3) Based on the results of the tests, AFS may require that the LP-gas be removed immediately from the container or that the container be removed immediately from LP-gas service.

(h) A container designed for underground installation only shall not contain liquid fuel at any time the container is aboveground or uncovered.

§9.142. LP-Gas Container Storage and Installation Requirements

Except as noted in this section and in addition to NFPA 58 §6.4.1.1, LP-gas containers shall be stored or installed in accordance with the distance requirements in NFPA 58, §§6.2.2, 6.4.4, and 8.4.1 and any other applicable requirements in NFPA 58 or the rules in this chapter.

(1) An LP-gas liquid dispensing installation other than a retail operated service station installation is not required to have a pump, provided that the storage containers are located one and one half times the required distances specified in NFPA 58, §6.4.1.1, or a minimum distance of 15 feet if the storage container is less than 125 gallons water capacity.

(2) Any LP-gas container constructed prior to 1970 which has an odd-numbered water gallon capacity (for example, 517 water gallons instead of 500 water gallons) that is not more than 5.0% greater than the standard water gallon capacity may be installed utilizing the minimum distance requirement based on the standard water gallon capacity.

§9.143. Piping and Valve Protection for Stationary LP-Gas Installations With Individual or Aggregate Water Capacities of 4,001 Gallons or More

(a) Instead of NFPA 58, §6.14, all new stationary LP-gas installations with individual or aggregate water capacities of 4,001 gallons or more shall:

(1) install a vertical bulkhead complying with subsection (d) of this section; and

(2) install one of the following in all container openings 1 1/4 inches or greater, as required in this section and §9.126 of this title (relating to Appurtenances and Equipment);

(A) pneumatically-operated emergency shutoff valves (ESV);

(B) pneumatically-operated internal valves;

(C) pneumatically-operated API 607 ball valves; or

(D) in lieu of the ESV or internal valve specified in subparagraphs (A) and (B) of this paragraph, a backflow check valve may be installed where the flow is in one direction into the container. The backflow check valve shall have a metal-to-metal seat or a primary resilient seat with metal backup, not hinged with combustible material, and shall be designed for the specific application.

(b) Valve protection requirements.

(1) The pneumatic ESV and/or backflow check valves shall be installed in the fixed piping of the transfer system upstream of the bulkhead and within four feet of the bulkhead with a stainless steel flexible wire-braided hose not more than 36 inches long installed between the ESV and the bulkhead.

(2) The ESV shall be installed in the piping so that any break resulting from a pull away will occur on the hose or swivel-type piping side of the connection while retaining intact the valves and piping on the storage side of the connection and will activate the ESV at the bulkhead and the internal valves, ESV, and API 607 ball valves at the container or containers. Provisions for anchorage and breakaway shall be provided on the cargo tank side for transfer from a railroad tank car directly into a cargo tank. Such anchorage shall not be required from the tank car side.

(3) Pneumatically-operated ESV, internal valves, and API 607 ball valves shall be equipped for automatic shutoff using thermal (fire) actuation where the thermal element is located within five feet (1.5 meters) of the ESV, internal valves, and/or API 607 ball valves. Temperature sensitive elements shall not be painted nor shall they have any ornamental finishes applied after manufacture.

(4) Internal valves, ESVs, and backflow check valves shall be tested annually for working order. The results of the tests shall be documented in writing and kept in a readily accessible location for one year following the performed tests.

(5) Pneumatically-operated internal valves, ESV, and API 607 ball valves shall be interconnected and incorporated into at least one remote operating system.

(c) In addition to NFPA 58 §5.9.4.1, stationary LP-gas installations or railroad tank car transfer systems to fill trucks with

no stationary storage involved shall have vertical bulkheads, pneumatic ESV and/or backflow check valves installed where the flow is in one direction into the container. ESVs, internal valves, and API 607 ball valves shall have emergency remote controls conspicuously marked according to the requirements of Table 1 of §9.140 of this title (relating to System Protection Requirements) as follows:

(1) For all new and existing facilities, where a bulkhead, internal valves, and ESVs are installed, at least one clearly identified and easily accessible manually operated remote emergency shutoff device shall be located between 20 and 100 feet from the ESV in the path of egress from the ESV.

(2) In addition to NFPA 58 §7.2.3.8 beginning September I, 2005, for new installations, at least one clearly identified and easily accessible manually operated remote emergency shutoff device shall be located between 25 and 100 feet from the ESV at the bulkhead and in the path of egress from the ESV. API 607 ball valves installed after February 1, 2008, shall also meet the requirements of this section.

(d) Existing installations which have horizontal bulkheads and cable-actuated ESV shall comply with the following:

(1) If the horizontal bulkhead requires replacement, it shall be replaced with a vertical bulkhead;

(2) If a cable-actuated ESV requires replacement, it shall be replaced with a pneumatically operated ESV;

(3) If the horizontal bulkhead or a backflow check valve or a cable-actuated ESV are moved from their original location to another location, no matter what the distance from the original location, then the installation shall comply with the requirements for a vertical bulkhead and pneumatically operated ESV;

(4) All cable-actuated ESV shall be replaced with pneumatically-operated ESV by January 1, 2011.

(e) Bulkheads, whether horizontal or vertical, shall comply with the following requirements:

(1) Bulkheads shall be installed for both liquid and vapor return piping;

(2) No more than two transfer hoses shall be attached to a pipe riser. If two hoses are simultaneously connected to one or two transports, the use of the two hoses shall not prevent the activation of the ESV in the event of a pull away;

(3) Both liquid and vapor transfer hoses shall be plugged or capped when not in use;

(4) Bulkheads shall be located at least 10 feet from any aboveground container or containers and a minimum of 10 feet horizontally from any portion of a container or valve exposed aboveground on any underground or mounded container. If the 10-foot distance cannot be obtained, the licensee or nonlicensee shall inform AFS in writing and include all necessary information. AFS may grant administrative distance variances to a minimum distance of five feet. If the licensee or nonlicensee requests that the bulkhead be closer than five feet to the container or containers, the licensee or nonlicensee shall apply for an exception to a safety rule as specified in §9.27 of this title (relating to Application for an Exception to a Safety Rule);

(5) Horizontal bulkheads shall not be converted to vertical bulkheads;

(6) Bulkheads shall be anchored in reinforced concrete to prevent displacement of the bulkhead, piping, and fittings in the event of a pullaway;

(7) Bulkheads shall be constructed by welding using the following materials or materials with equal or greater strength, as shown in the diagram.

(A) Six-inch steel channel iron shall be used;

(B) Legs shall be four-inch schedule 80 piping;

(C) The top crossmember of a vertical bulkhead shall be six-inch standard weight steel channel iron. The channel iron shall be installed so the channel portion is pointing downward to prevent accumulation of water or other debris. The height of the top crossmember above ground shall not result in torsional stress on the vertical supports of the bulkhead in the event of a pullaway;

(D) The kick plate shall be at least 1/4 inch steel plate installed at least 10 inches from the top of the bulkhead crossmember. A kick plate is not required if the crossmember is constructed to prevent torsional stress from being placed on the piping to the pipe risers;

(E) Either a schedule 40 pipe sleeve or a 3,000-pound coupling shall be welded between the top crossmember and the kick plate;

(i) Pipe sleeves shall have a clearance of 1/4 inch or less for the piping to the pipe riser, and the piping shall terminate through the bulkhead with a schedule 80 pipe collar, a minimum 12-inch schedule 80 threaded (not welded) pipe riser (nipple), and an elbow or other fitting between the bulkhead and hose coupling;

(ii) If a 3,000-pound coupling is used, no collar is required; however, the minimum 12-inch length of schedule 80 threaded pipe riser and an elbow or other fitting between the bulkhead and hose coupling are required;

(iii) Elbows or other fittings shall comply with NFPA 58, §5.11.4 and shall direct the transfer hose from vertical to prevent binding or kinking of the hose.

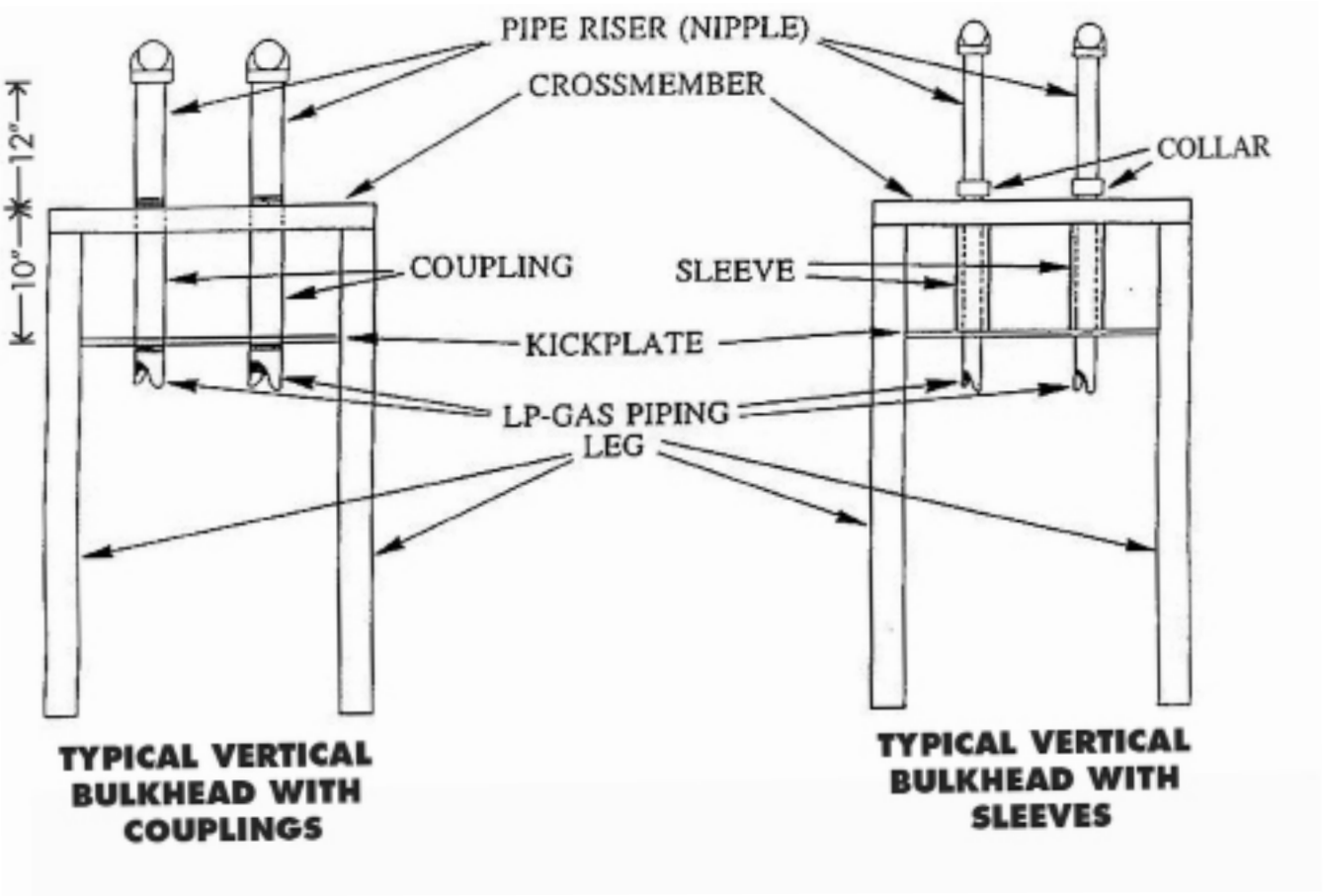
(8) In lieu of a minimum 12-inch nipple on a vertical bulkhead, swivel-type piping (breakaway loading arm) may be installed. The swivel-type piping shall meet all applicable provisions of the rules in this chapter. The swivel-type piping may also be used for loading, unloading, or product transfer but shall not be used in lieu of ESVs. The swivel-type piping shall be installed and maintained according to the manufacturer's instructions.

(9) AFS may require additional bulkhead protection if the installation is subject to exceptional circumstances or located in an unusual area where additional protection is necessary to protect the health, safety, and welfare of the general public.

(f) The bulkheads, internal valves, backflow check valves, and ESVs shall be kept in working order at all times in accordance with the manufacturer's instructions and the rules in this chapter. If the bulkheads, internal valves, backflow check valves and ESVs are not in working order in accordance with the manufacturer's instructions and the rules in this chapter, the licensee or operator of the installation shall immediately remove them from LP-gas service and shall not operate the installation until all necessary repairs have been made.

(g) In addition to NFPA 58 §§5.11.6 and 6.11.6.1, by February 1, 2003, rubber flexible connectors which are 3/4-inch or larger in size installed in liquid or vapor piping at an existing liquid transfer operation shall have been replaced with a

Figure: 16 TAC §9.143(e)(7)



stainless steel flexible connector. Stainless steel flexible connectors shall be 60 inches in length or less, and shall comply with all applicable rules in this chapter. Flexible connectors installed at a new installation after February 1, 2001, shall be stainless steel.

(h) If necessary to increase LP-gas safety, AFS may require a pneumatically-operated internal valve equipped for remote closure and automatic shutoff through thermal (fire) actuation to be installed for certain liquid and/or vapor connections with an opening of 3/4 inch or one inch in size.

(i) Stationary LP-gas installations with individual or aggregate water capacities of 4,001 gallons or more are exempt from subsections (a) through (c) of this section provided:

(1) each container is filled solely through a 1 3/4 inch double back check filler valve installed directly into the container;

(2) at least one clearly identified and easily accessible manually operated remote emergency shutoff device shall be located between 25 and 100 feet from the point of transfer in the path of egress to close the primary discharge valves in the containers; and

(3) the LP-gas installation is not used to fill an LP-gas transport.

SUBCHAPTER C – VEHICLES

§9.201. Applicability

(a) This subchapter applies to transport containers and moveable fuel storage tenders such as farm carts constructed to MC-330 or MC-331 Department of Transportation (DOT) specifications, nonspecification units, container delivery units, school buses, mass transit vehicles, special transit vehicles, and public transportation vehicles.

(1) Transfer of LP-gas from one transport to another shall be permitted only through a hose with a nominal inside diameter of 1 1/4 inch or less and protected by an off-truck remote control shutdown as required in Title 49 Code of Federal Regulations (CFR) §173.3.15(n)(3).

(2) An LP-gas transport shall not be joined to manifold piping or to a stationary container for use as an auxiliary storage container at any stationary installation except with prior approval from AFS.

(b) All transports and moveable fuel storage tenders shall comply with MC-330 or MC-331, or the exemption in 49 CFR §173.315(k).

(c) Licensees and ultimate consumers shall comply with other DOT or motor vehicle requirements, if applicable. In addition, transports and container delivery units shall also comply with the applicable sections of 49 CFR, the Federal Motor Vehicle Safety Standards, and any other applicable regulations. Examples of such additional requirements are as follows:

(1) 49 CFR §177.834(j) states: “Except for a cargo tank conforming to §173.29(b)(2) of this subchapter, a person may not drive a cargo tank motor vehicle containing a hazardous material regardless of quantity unless: (1) All

manhole closures are closed and secured; and (2) All valves and other closures in liquid discharge systems are closed and free of leaks, except external emergency self-closing valves on MC 338 cargo tanks containing the residue of cryogenic liquids may remain either open or closed during transit."

(2) 49 CFR §177.840(g) states: "Each liquid discharge valve on a cargo tank motor vehicle, other than an engine fuel line valve, must be closed during transportation except during loading and unloading."

(3) 49 CFR §180.405(n) states: "Thermal activation. No later than the date of its first scheduled leakage test after July 1, 1999, each specification MC 330 or MC 331 cargo tank motor vehicle and each nonspecification cargo tank motor vehicle conforming to §173.315(k) of this subchapter, marked and certified before July 1, 1999, that is used to transport a liquefied compressed gas, other than carbon dioxide and chlorine, that has a water capacity of 13,247.5 liters (3,500 gallons) or less must be equipped with a means of thermal activation for the internal self-closing stop valve as specified in §178.337- 8(a)(4) of this subchapter."

§9.202. Registration and Transfer of LP-Gas Transports or Container Delivery Units

(a) A person who operates a transport equipped with LP-gas cargo tanks or any container delivery unit, regardless of who owns the transport or unit, shall register such transport or unit with AFS in the name or names under which the operator conducts business in Texas prior to the unit being used in LP-gas service.

(1) To register a unit previously unregistered in Texas, the operator of the unit shall:

(A) pay to AFS the $270 registration fee for each bobtail truck, semitrailer, container delivery unit, or other motor vehicle equipped with LP-gas cargo tanks;

(B) file a properly completed LPG Form 7;

(C) file a copy of the Manufacturer's Data Report;

(D) file a copy of the DOT Certificate of Compliance; and

(E) file a copy of the hydrostatic or pneumatic test required by §9.208 of this title (relating to Testing Requirements), unless the unit was manufactured within the previous five years or 10 years for units which meet the exemption in 49 CFR 180.407(c).

(2) To register an MC-330/MC-331 specification unit which was previously registered in Texas but for which the registration has expired, the operator of the unit shall:

(A) pay to AFS the $270 registration fee;

(B) file a properly completed LPG Form 7; and

(C) file a copy of the latest test results if an expired unit has not been used in the transportation of LP-gas for over one year or if a current hydrostatic test has not been filed with AFS.

(3) To re-register a currently registered unit, the licensee operating the unit shall pay a $270 annual registration fee.

(4) To transfer a currently registered unit, the new operator of the unit shall:

(A) pay the $100 transfer fee for each unit; and

(B) file a properly completed LPG Form 7.

(b) AFS may also request that an operator registering or transferring any unit have the unit tested by a test other than those required by §9.208 of this title.

(c) When all registration or transfer requirements have been met, AFS shall issue LPG Form 4 which shall be properly affixed in accordance with the placement instructions on the form. LPG Form 4 shall authorize the licensee or ultimate consumer to whom it has been issued and no other person to operate such unit in the transportation of LP-gas and to fill the transport containers.

(1) A person shall not operate an LP-gas transport unit or container delivery unit in Texas unless the LPG Form 4 has been properly affixed or unless its operation has been specifically approved by AFS.

(2) A person shall not introduce LP-gas into a transport container unless that unit bears an LPG Form 4 or unless specifically approved by AFS.

(3) LPG Form 4 shall not be transferable by the person to whom it has been issued, but shall be registered by any subsequent licensee or ultimate consumer prior to the unit being placed into LP-gas service.

(4) This subsection shall not apply to:

(A) a container manufacturer/fabricator who introduces a reasonable amount of LP-gas into a newly constructed container in order to properly test the vessel, piping system, and appurtenances prior to the initial sale of the container. The liquid LP-gas shall be removed from the transport container prior to the unit leaving the container manufacturer/fabricator's premises; or

(B) a person who introduces a maximum of 150 gallons of LP-gas into a newly constructed transport container when such container will provide the motor fuel to the chassis engine for the purpose of allowing the unit to reach its destination.

(5) AFS shall not issue an LPG Form 4 if;

(A) AFS or a Category A, B, or O licensee determines that the transport is unsafe for LP-gas service.

(B) AFS does not have an inspection record of the transport or cylinder delivery unit by a Commission representative within four years of its initial registration; or

(C) AFS has not inspected the transport or cylinder delivery unit at least once every four years after the initial registration.

(6) If an LPG Form 4 decal on a unit currently registered with AFS is destroyed, lost, or damaged, the operator of

that vehicle shall obtain a replacement decal by filing LPG Form 18B and a $50 replacement fee with AFS.

§9.203. School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle Installations and Inspections

(a) After the manufacture of or the conversion to an LP-gas system on any vehicle to be used in Texas as a school bus, mass transit, public transportation, or special transit vehicle, the manufacturer, licensee, or ultimate consumer making the installation or conversion shall notify AFS in writing on LPG Form 503 that the applicable LP-gas powered vehicles are ready for a complete inspection to determine compliance with the rules in this chapter.

(b) AFS shall conduct the inspection within a reasonable time to ensure the vehicles are operating in compliance with the rules in this chapter.

(1) If AFS' initial complete inspection finds the vehicle in compliance with the rules in this chapter and the statutes, the vehicle may be placed into LP-gas service. For fleet installations of identical design, an initial inspection shall be conducted prior to the operation of the first vehicle, and subsequent vehicles of the same design may be placed into service without prior inspections.

(2) If violations exist at the time of the initial complete inspection, the vehicle shall not be placed into LP-gas service and the manufacturer, licensee, or ultimate consumer making the installation or conversion shall correct the violations. The manufacturer, licensee, or ultimate consumer shall file with AFS documentation demonstrating compliance with the rules in this chapter, or AFS shall conduct another complete inspection before the vehicle may be placed into LP-gas service.

(3) For public transportation vehicles only, if AFS does not conduct the initial inspection of such vehicle within 30 business days of receipt of LPG Form 503, the vehicle may be operated in LP-gas service if it complies with the rules in this chapter.

(c) The manufacturer, licensee, or ultimate consumer making the installation or conversion shall be responsible for compliance with the rules in this chapter, statutes, and any other local, state, or federal requirements.

(d) If the requested AFS inspection identifies violations requiring modifications by the manufacturer, licensee, or ultimate consumer, AFS shall consider the assessment of an inspection fee to cover the costs associated with any additional inspection, including mileage and per diem rates set by the legislature.

§9.204. Maintenance of Vehicles

(a) All LP-gas vehicles and vehicle containers, valves, dispensers, accessories, piping, transfer equipment, gas container, gas utilization equipment, and appliances shall be maintained in safe working order and in accordance with the manufacturer's instructions and the rules in this chapter.

(b) If any of the LP-gas vehicles and vehicle containers, valves, dispensers, accessories, piping, transfer equipment, gas containers, gas utilization equipment, or appliances is not in safe working order, AFS may require that the vehicle be immediately removed from LP-gas service and not be operated until the necessary repairs have been made.

§9.206. Vehicle Identification Labels

LP-gas shall not be introduced into any vehicle powered by LP-gas and designed for regular use on public roadways unless the vehicle is properly identified by a weather-resistant diamond-shaped label described in NFPA 58, §12.3.4.2, as that section is amended in Table 1 of §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted With Changes or Additional Requirements).

§9.208. Testing Requirements

Each transport container unit required to be registered with AFS shall be tested in accordance with 49 CFR 180.407, relating to requirements for test and inspection of specification cargo tanks. The tests shall be conducted by any individual authorized by the United States Department of Transportation through a DOT "CT" number to conduct such tests. This section shall not apply to the initial transfer of unregistered units that are tested and transferred from another state. If the test results show any unsafe condition, or if the transport unit does not comply with 49 CFR Parts 100-185, the transport container unit shall be immediately removed from LP-gas service and shall not be returned to LP-gas service until all necessary repairs have been made and AFS authorizes in writing its return to service.

§9.211. Markings

In addition to NFPA 58 §9.4.6.2, each LP-gas transport and container delivery unit in LP-gas service shall be marked on each side and the rear with the name of the licensee or the ultimate consumer operating the unit. Such lettering shall be legible and at least two inches in height and in sharp color contrast to the background. AFS shall determine whether the name marked on the unit is sufficient to properly identify the licensee or ultimate consumer operating the unit.

§9.212. Manifests

(a) All manifests or bills of lading shall indicate the amount and type of odorant per gross gallons, the vapor pressure of the product at 100 degrees Fahrenheit, the net gallons, the loading temperature, the specific gravity at 60 degrees Fahrenheit, the type of product, and the United Nations number with verification by the loading entity and loader. A copy of the manifest or bill of lading shall be given to the entity receiving the shipment.

(b) This requirement shall not apply to loads covered by permanent shipping papers authorized by DOT.

(c) Manifests shall be made available to the Commission upon request.

SUBCHAPTER D - ADOPTION BY REFERENCE OF NFPA 54 (NATIONAL FUEL GAS CODE)

§9.301. Adoption by Reference of NFPA 54

(a) Effective September 1, 2020, except as modified in the remaining sections of this subchapter, the Commission adopts by specific reference the provisions established by the National Fire Protection Association in its 2018 edition of the National Fuel Gas Code, commonly referred to as NFPA 54 or Pamphlet 54. Nothing in this section or subchapter shall prevent the Commission, after notice, from adopting additional requirements, whether more or less stringent, for individual situations to protect the health, safety, and welfare of the general public. Any documents or parts of documents incorporated by reference into these rules shall be a part of these rules as if set out in full.

(b) Effective September 1, 2020, the Commission also adopts by reference all other NFPA publications or portions of those publications referenced in NFPA 54 which apply to LP-gas activities only. The adopted pamphlets referenced in NFPA 54 are:

(1) NFPA 30A, *Code for Motor Fuel Dispenser Facilities and Repair Garages*, 2018 edition;

(2) NFPA 37, *Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines*, 2018 edition;

(3) NFPA 51, *Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes*, 2018 edition;

(4) NFPA 52, *Vehicular Fuel Systems Code*, 2016 edition;

(5) NFPA 58, *Liquefied Petroleum Gas Code*, 2017 edition, as amended in Subchapter E of this chapter (Relating to Adoption by Reference of NFPA 58 (LP-Gas Code));

(6) NFPA 70, *National Electrical Code*, 2017 edition;

(7) NFPA 82, *Standard on Incinerators and Waste, and Linen Handling Systems and Equipment*, 2014 edition;

(8) NFPA 88A, *Standard for Parking Structures*, 2015 edition;

(9) NFPA 90A, *Standard for the Installation of Air Conditioning and Ventilating Systems*, 2018 edition;

(10) NFPA 90B, *Standard for the Installation of Warm Air Heating and Air Conditioning Systems*, 2018 edition;

(11) NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*, 2017 edition;

(12) NFPA 211, *Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances*, 2016 edition;

(13) NFPA 409, *Standard on Aircraft Hangars*, 2016 edition;

(14) NFPA 780, *Standard for the Installation of Lightning Protection Systems*, 2017 edition;

(15) NFPA 853, *Standard for the Installation of Station Fuel Cell Power Systems*, 2015 edition; and

(16) NFPA 1192, *Standard on Recreational Vehicles*, 2018 edition.

§9.302. Clarification of Certain Terms Used in NFPA 54

(a) Authority having jurisdiction. As pertains to LP-gas activities in Texas, the phrase "authority having jurisdiction" defined in NFPA 54, §3.2, and referenced in other NFPA publications shall be the Railroad Commission of Texas or any of its divisions or employees, except with respect to the definitions of "approved," "engineering," "labeled," and "listed" in NFPA 54, §3.2.

(b) Qualified agency. The term "qualified agency" as defined in NFPA 54, §3.3.81, shall include a person (as "person" is defined in §9.2 of this title (relating to Definitions)) who holds a current license issued by the Commission, or a person performing certain LP-gas activities on his own premises, as allowed in §9.134 of this title (relating to Connecting Container to Piping).

(c) Engineering. The Commission does not adopt language in any NFPA 54 rule such as "sound engineering practice," "accepted engineering practice," "good engineering practice," "sound engineering design," or similar language that might be understood to mean or refer to the practice of engineering. The omission of a specific NFPA 54 rule or other NFPA pamphlets containing such language from the exceptions listed in this subchapter is inadvertent and shall not be read or understood as requiring, allowing, or approving the unlicensed practice of engineering or any other professional occupation requiring a license.

§9.303. Exclusion of NFPA 54, §10.29

The Commission does not adopt NFPA 54, §10.28, which refers to NFPA 52,Vehicular Fuel Systems Code. Persons engaging in CNG activities shall comply with the Commission's adopted rules at Chapter 13 of this title (relating to Regulations for Compressed Natural Gas (CNG)).

§9.304. Unvented Appliances.

An individual who services and repairs an LP-gas appliance not required by the manufacturer to be vented to the atmosphere is exempt from the requirement to obtain a Category D license as specified in §9.6 of this title (relating to License Categories, Container Manufacturer Registration, and Fees). An individual who installs these unvented appliances to LP-gas systems by means of LP-gas appliance connectors is also exempt from Category D licensing.

§9.306. Room Heaters in Public Buildings

In addition to applicable requirements in NFPA 54, §10.22.3, Installation of Specific Appliances, room heaters in schools, day care centers, foster homes, hotels or other similar buildings or rooms used for temporary lodging shall be vented and

equipped with a safety shut-off device, except that room heaters with 40,000 Btu or less input and infrared heaters are not required to be vented, but shall have a safety shutoff device and an oxygen depletion system (ODS).

§9.307. Identification of Converted Appliances

(a) In addition to the requirements of NFPA 54, §9.1.3, and NFPA 58, §5.23, upon completion of the conversion and testing of LP-gas appliances, the licensee, registrant, or appliance manufacturer making the conversion shall attach to each such appliance a decal or tag of metal or other permanent material indicating that the appliance is converted for use with LP-gas.

(b) Conversion of an appliance for use with LP-gas by an authorized representative of the appliance manufacturer, using parts provided by the manufacturer, is not an activity requiring licensing pursuant to Texas Natural Resources Code, §113.081.

§9.308. Installation of Piping

(a) In addition to the requirements of NFPA 54, Chapter 7, Gas Piping Installation, LP-gas piping shall be installed, altered, repaired, pressure tested, and leakage tested only by persons properly certified by the Commission pursuant to §9.10 and §9.13 of this title (relating to Rules Examination, and General Installers and Repairman Exemption, respectively).

(b) Licensees and registrants shall document and retain such documentation of all pressure and leakage tests pursuant to §9.4 of this title (relating to Records).

(c) When connecting to or supplying a new piping system with corrugated stainless steel tubing (CSST), the licensee or registrant shall verify the system is bonded.

(d) In addition to NFPA 58 §5.11.5, licensees and registrants shall retain written proof regarding any current certifications required by the manufacturer for installation and repair methods for CSST, polyethylene, and polyamide pipe and tubing, including heat-fusion.

§9.311. Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support

(a) In addition to the requirements of NFPA 54, §9.6.2 and NFPA 58 §5.11.6.5 regarding gas hose connectors, agricultural structures, such as greenhouses or broiler houses, or industrial structures not inhabited by humans may use a gas hose connector more than six feet in length as an appliance connector provided that:

(1) the hose used shall be marked as acceptable for LP-gas service;

(2) the hose shall comply with NFPA 58, §§5.11.6.1 through 5.11.6.4;

(3) the length of the hose used shall be only that which is sufficient to serve the purpose for which it is intended; and

(4) manufactured hose connections, such as quick-connect or threaded fittings, shall be used.

(b) Only broiler houses and other types of poultry houses may connect LP-gas piping with stainless steel screw-type banded clamps in lieu of the required manufactured hose connections specified in subsection (a)(4) of this section, provided that the clamps are properly installed and the connections are gas-tight, that the clamps are used in conjunction with hose barb adaptors, and that the system's operating pressure is 6 1/2 ounces or less. Other agricultural structures shall comply with the requirements of subsection (a)(4) of this section.

(c) Items listed in NFPA 54, §1.1.1.2(2) must comply with the requirements of NFPA 58 as adopted in Subchapter E of this chapter (relating to Adoption by Reference of NFPA 58 (LP-Gas Code)).

§9.313. Sections in NFPA 54 Adopted with Additional Requirements or Not Adopted

Table 1 of this section lists certain NFPA 54 sections which the Commission adopts with additional requirements, changes, or does not adopt in order to address the Commission's rules in this chapter.

Figure: 16 TAC §9.313
NFPA 54 Sections with Additional Requirements or Not Adopted (Effective September 1, 2020)

Affected NFPA 54 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments
Chapter 7	additional requirements	See Commission rule §9.308, Identification of Piping Installation
9.1.3	additional requirements	See Commission rule §9.307, Identification of Converted Appliances.
9.6.2	additional requirements	See Commission rule §9.311(a), Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support.
10.22.3	additional requirements	See Commission rule §9.306, Room Heaters in Public Buildings.
10.28	not adopted	See Commission rule §9.303, Exclusion of NFPA 54, §10.28.

SUBCHAPTER E - ADOPTION BY REFERENCE OF NFPA 58 (LP-GAS CODE)

§9.401. Adoption by Reference of NFPA 58

(a) Effective September 1, 2020, except as modified in this subchapter, the Commission adopts by specific reference the provisions established by the National Fire Protection Association (NFPA) in its 2017 edition of the Liquefied Petroleum Gas Code, commonly referred to as NFPA 58 or Pamphlet 58. Nothing in this section or subchapter shall prevent the Commission, after notice, from adopting additional requirements, whether more or less stringent, for individual situations to protect the health, safety and welfare of the general public. Any documents or parts of documents incorporated by reference into these rules shall be a part of these rules as if set out in full.

(b) Effective September 1, 2020, the Commission also adopts by reference all other NFPA publications or portions of those publications referenced in NFPA 58, §2.1, which apply to LP-gas activities only. The adopted pamphlets referenced in NFPA 58 are:

(1) NFPA 10, *Standard for Portable Fire Extinguishers*, 2013 edition;

(2) NFPA 13, *Standard for the Installation of Sprinkler Systems*, 2016 edition;

(3) NFPA 15, *Standard for Water Spray Fixed Systems for Fire Protection*, 2017 edition;

(4) NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*, 2017 edition;

(5) NFPA 30, *Flammable and Combustible Liquids Code*, 2015 edition;

(6) NFPA 30A, *Code for Motor Fuel Dispensing Facilities and Repair Garages*, 2015 edition;

(7) NFPA 51B, *Standard for Fire Prevention in Use of Cutting and Welding Processes*, 2014 edition;

(8) NFPA 54, *National Fuel Gas Code*, 2018 edition, as amended in Subchapter D of this chapter (relating to Adoption by Reference of NFPA 54 (National Fuel Gas Code));

(9) NFPA 55, *Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks*, 2016 edition;

(10) NFPA 59, *Utility LP-Gas Plant Code*, 2015 edition;

(11) NFPA 70, *National Electrical Code*, 2017 edition;

(12) NFPA 99, *Standard for Health Care Facilities*, 2015 edition;

(13) NFPA 101, *Life Safety Code*, 2015 edition;

(14) NFPA 160, *Standard for the Use of Flame Effects Before an Audience*, 2016 edition;

(15) NFPA 220, *Standard on Types of Building Construction*, 2015 edition;

(16) NFPA 1192, *Standard on Recreational Vehicles*, 2015 edition.

§9.402. Clarification of Certain Terms Used in NFPA 58

(a) Authority having jurisdiction. As pertains to LP-gas activities in Texas, the phrase "authority having jurisdiction" defined in NFPA 58, §3.2, and referenced in other NFPA publications shall be the Railroad Commission of Texas or any of its divisions or employees, except with respect to the definitions of "approved," "labeled," and "listed" in NFPA 58, §3.2.

(b) Engineering. The Commission does not adopt language in any NFPA 58 rule such as "sound engineering practice," "accepted engineering practice," "good engineering practice," "sound engineering design," or similar language that might be understood to mean or refer to the practice of engineering. The omission of a specific NFPA 58 rule or other NFPA pamphlets containing such language from Table 1 of §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional Requirements) is inadvertent and shall not be read or understood as requiring, allowing, or approving the unlicensed practice of engineering or any other professional occupation requiring a license.

(c) Container capacity, piping system, and appliance exceptions. The Commission does not adopt language in any NFPA rule, chart, figure, or table pertaining to any LP-gas container having a water capacity of one gallon (4.2 pounds LP-gas capacity) or less, or to any LP-gas piping system or appliance attached or connected to such a container.

§9.403. Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional Requirements

(a) Table 1 of this section lists certain NFPA 58 sections which the Commission does not adopt because the Commission's corresponding rules are more pertinent to LP-gas activities in Texas, or which the Commission adopts with changed language or additional requirements in order to address the Commission's existing rules.

Figure: 16 TAC §9.403(a)
§9.403 Table--Sections in NFPA 58, 2017 Edition, Not Adopted by Reference, or Adopted With Changes, Additional Requirements, or Corrections (Effective September 1, 2020)

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
3.2.2	additional requirement	In addition to definition for "Authority Having Jurisdiction," see Commission rule §9.402(a), Clarification of Certain Terms Used in NFPA 58.
4.3.1	not adopted	See Commission rules §9.27, Application for an Exception to a Safety Rule, and §9.101, Filings Required for Stationary LP-Gas Installations.

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
4.3.3	not adopted	See Commission rules §9.101(b), Filings Required for Stationary LP-Gas Installations.
4.4	additional requirement	See Commission rule §§9.8, Requirements and Application for a New Certificate and 9.51, General Requirements for Training and Continuing Education.
5.2.1.1	additional requirement	See Commission rule §9.135, Unsafe of Unapproved Containers, Cylinders, or Piping and §9.137, Inspection of Containers at Each Filling.
5.2.1.11	additional requirement	See Commission rule §9.116, Container Corrosion Protection System
5.2.2	additional requirement	See Commission rule §9.135, Unsafe of Unapproved Containers, Cylinders, or Piping and §9.137, Inspection of Containers at Each Filling.
5.2.4.2	additional requirement	See Commission rule §9.131, 200 PSIG Working Pressure Stationary Vessels.
5.2.8.1	additional requirement	See Commission rules §9.140(g), Table 1, System Protection Requirements, and §9.141(e), Uniform Safety Requirements.
5.2.8.3(A) and (B)	not adopted	See Commission rule §9.129, Manufacturer's Nameplate and Markings on ASME Containers.
5.2.8.3(C)	additional requirement	See Commission rule §9.129, Manufacturer's Nameplate and Markings on ASME Containers.
5.2.8.5	with changes	All containers that contain unodorized LP-gas products shall be marked "NOT ODORIZED" or "NON-ODORIZED"
5.7.2.5(A)	additional requirement	See Commission rule §9.131, 200 PSIG Working Pressure Stationary Vessels.
5.9.4.1	additional requirements and with changes	See Commission rules §9.143(c), Piping and Valve Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
Table 5.9.4.1(B)	with changes	Heading: Container Connection and Appurtenance Requirements ~~for Containers Used in Other Than Bulk Plants and Industrial Plants~~
5.9.4.2	not adopted	See Commission rule §9.126(d), Appurtenances and Equipment
Table 5.9.4.2	not adopted	See Commission rule §9.126(d), Appurtenances and Equipment
5.9.7.1	with changes	Other container openings shall be equipped with any of the following: (1) - (5) no change (6) For reducing the size of a container opening, only one bushing with a minimum pressure rating in accordance with Table 5.11.4.1 shall be installed.
5.11.5	additional requirement	See Commission rule §9.308(d), Installation of Piping.
5.11.6	additional requirement	See Commission rule §9.143(g), Piping and Valve Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
5.11.6.5	additional requirement	See Commission rule §9.311, Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support.

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
5.23	additional requirement	See Commission rule §9.307, Identification of Converted Appliances.
6.2.2	with changes	LP-Gas containers shall be allowed in buildings only for the following applications. (1) - (7) no change. [~~(8) Cylinders awaiting use, resale, or exchange when stored in accordance with Sections 8.2 and 8.3.~~]
6.4.1.1	additional requirement	See Commission rule §9.142, LP-Gas Container Storage and Installation Requirements.
6.4.1.2	not adopted	
6.5.1.1	with changes	Where [~~storage~~] containers [~~having an aggregate water capacity of more than 4000 gal (15.1 m3)~~] are located in heavily populated or congested areas, the siting provisions of 6.4.1.1 and Table 6.4.1.1 shall be permitted to be modified [~~as indicated~~] by the [~~fire safety analysis described in 6.25.3~~] Commission.
6.5.4.1	additional requirement	See Commission rule §9.141(f), Uniform Safety Requirements.
6.8.1.2	additional requirement	See Commission rule §9.140(d), System Protection Requirements.
6.8.1.4	additional requirement	See Commission rule §9.141(a), Uniform Safety Requirements.
6.8.2.1	with changes	Cylinders shall be installed only aboveground, and shall be set upon a firm foundation of concrete, masonry, or metal and [~~or otherwise~~] be firmly secured against displacement. (See 6.6.2.2)
6.8.3.1	with changes	Horizontal ASME containers designed for permanent installation in stationary service above ground shall be placed on masonry or other noncombustible structural supports located on concrete or masonry foundations with the container supports. Containers shall not be in contact with the soil.
6.8.6.1 (A) - (E)	additional requirement	See Commission rule §9.140(d), System Protection Requirements.
6.8.6.1(I)	additional requirement	See Commission rule §9.116, Container Corrosion Protection System.
6.8.6.2(A)	additional requirement	See Commission rule §9.116, Container Corrosion Protection System.
6.8.6.2(F)	additional requirement	See Commission rule §9.140(d), System Protection Requirements.
6.8.6.3(F)	additional requirement	See Commission rule §9.116, Container Corrosion Protection System.
6.10.2.3	with changes	Single-stage regulators shall not be installed in fixed piping systems on or after February 1, 2001 [~~June 30, 1997~~], except for installations covered in 6.10.2.4.
6.11.3.10	with changes	Aboveground piping shall be supported and protected again physical damage [~~by vehicles~~].
6.11.3.14	additional requirement	See Commission rule §9.116, Container Corrosion Protection System.
6.11.3.16	with changes	Underground metallic piping, tubing or both that convey LP-Gas from an underground partially buried or mounded [~~a~~] gas storage container shall be provided with dielectric fittings installed above ground and outdoors at the building to electrically isolate it from the aboveground portion of the fixed piping system that enters a building.

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
6.11.6.1	additional requirement	See Commission rule §9.143, Piping and Valve Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
6.11.6.3	with changes	Flexible metallic connectors shall not exceed 5 ft (1.5m) in overall length when used with liquid or vapor piping on stationary containers [~~of 2000 gal (7.6 m3) water capacity or less~~].
6.13.1	with changes	The requirements of 6.13.2 through 6.13.5 shall be required for internal valves in liquid and/or vapor service installed on containers over 4000-gal (15.2-m3) water capacity by July 1, 2003.
6.13.2	with changes	Internal valves shall be installed in accordance with Commission rule §9.126(d) [~~5.9.4.2 and Table 5.9.4.2~~] on containers over 4000 gal (15.2 m3) water capacity.
6.13.3.1	with changes	Automatic shutdown of internal valves in liquid and/or vapor service shall be provided using thermal (fire) actuation.
6.13.4.1	with changes	At least one remote shutdown station for internal valves in liquid and/or vapor service shall be installed in accordance with the following: (1) - (3) no change
6.13.5	not adopted	See Commission rule §9.140(g), System Protection Requirements, Table 1.
6.14	not adopted	See Commission rule §9.143, Piping and Valve Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
6.19.2	not adopted	See Commission rule §9.116, Container Corrosion Protection System.
6.19.4	not adopted	
6.21.1	additional requirement	See Commission rule §9.113, Installation and Maintenance.
6.21.4.2	additional requirements	See Commission rule §9.140(c), System Protection Requirements.
6.22.3.2(3)	additional requirement	See Commission rule §9.140(c), System Protection Requirements.
6.22.9.3	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
6.22.9.4	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
6.25.2.4	with changes	The provision of 6.25.2.2 shall not apply to fixed electrical equipment at residential [~~or commercial~~] installations of LP-Gas systems or to systems covered by Section 6.26.
6.27.3.7	additional requirements	See Commission rule §9.140(c), System Protection Requirements.
6.27.3.8	with changes	The container liquid withdrawal opening used with retail operated vehicle fuel dispensers and retail operated dispensing stations shall be equipped with one of the following: (1) – (2) no change

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
6.27.3.13	with changes	Vehicular barrier protection (VBP) shall be provided for containers serving dispensers where those containers are located within 10 ft (3 m) of a vehicle thoroughfare or parking location in accordance with §9.140(d), System Protection Requirements [~~6.27.3.13(A) or 6.27.3.13(B)~~]. (A) - (B) not adopted
6.27.3.14	additional requirement	See Commission rule §9.140(d), System Protection Requirements
6.27.3.15	additional requirement	See Commission rule §9.140(d), System Protection Requirements
6.27.3.16	with changes	A listed quick-acting shutoff valve or a listed quarter turn ball valve with a locking handle shall be installed at the discharge end of the transfer hose.
6.27.3.17	additional requirement	See Commission rule §9.140, System Protection Requirements, Table 1.
6.27.4.1	additional requirement	See Commission rule §9.141(b)(3), Uniform Safety Requirements.
6.27.4.2	additional requirements	See Commission rule §9.141(b), Uniform Safety Requirements.
6.29.1	with changes	Section 6.29 shall apply to fire protection for industrial plants, bulk plants and dispensing systems with an aggregate water capacity greater than 4,000 gallons.
6.29.3.1	with changes	Fire protection shall be provided for installations with an aggregate water capacity of 10,000 gallons or more [~~than 4000 gal (15.2 m3)~~] and for ASME containers on roofs.
6.29.3.2	with changes	The modes of fire protection shall be specified in a written fire safety analysis for new installations, for existing installations that have an aggregate water capacity of 10,000 gallons or more [~~than 4000 gal (15.2 m3)~~], and for ASME containers on roofs. Existing installations shall comply with this requirement within two years of the effective date of the amendments to §9.403, Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional Requirements [~~within 2 years of the effective date of this code~~].
6.29.3.3	with changes	The fire safety analysis shall be submitted by the owner, operator, or their designee to the authority having jurisdiction, upon request, and local emergency responders.
6.30	with changes	Alternate Provisions for Installation of Underground and Mounded ASME Containers.
7.2.2.16	additional requirement	See Commission rule §9.137, Inspection of Cylinders at Each Filling
7.2.3.8	additional requirement	See Commission rule §9.143(c)(2), Piping and Valve Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
7.4.2.1	additional requirement	See Commission rule §9.136, Filling of DOT Containers.

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
7.4.3.1	with changes	The volumetric method shall be limited to the following containers, where they are designed and equipped for filling by volume: ~~(1) Cylinders of less than 200 lb (91 kg) water capacity that are not subject to DOT jurisdiction~~ (1) ~~(2)~~ Cylinders of 101 lb LP-gas capacity ~~200 lb (91 kg) water capacity~~ or more (2) ~~(3)~~ Cargo tanks or portable tanks (3) ~~(4)~~ ASME and API-ASME containers complying with 5.2.1.1 or 5.2.4.2
8.2.1.1	additional requirement	See Commission rule §9.140(c), System Protection Requirements
8.3.1	not adopted	
Table 8.3.1(a)	not adopted	
Table 8.3.1(b)	with changes	Heading: Maximum Allowable Storage Quantities of LP-Gas in ~~Mercantile,~~ Industrial~~,~~ and Storage Occupancies Column 2 (Mercantile) Not Adopted
8.3.2	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
8.4.1.1	additional requirement	See Commission rule §9.141(i), Uniform Safety Requirements.
8.4.2.2	not adopted	See Commission rule §9.140(h), System Protection Requirements.
8.4.3	not adopted	See Commission rule §9.27, Application for an Exception to a Safety Rule.
8.5.5	not adopted	See Commission rule §9.141(i), Uniform Safety Requirements
9.4.6.2	additional requirement	See Commission rule §9.211, Markings.
9.4.8	with changes	Any unit registered with the Commission [~~Each cargo tank vehicle or trailer~~] shall utilize a wheel stop, in addition to the parking or hand brake, whenever the unit [~~cargo tank vehicle~~] is loading, unloading or parked, to prevent the unit from unintended movement.
9.6.2.2	with changes	Valves and fittings shall be protected by a method [~~approved by the authority having jurisdiction~~] to minimize the possibility of damage.
11.2	additional requirements	See Commission rules §§9.8, Requirements and Application for a New Certificate, and 9.51, General Requirements for LP-Gas Training and Continuing Education.
11.3.4(A)	not adopted	See Commission rule §9.129, Manufacturer's Nameplate and Markings on ASME Containers.
12.3.4.2	with changes	The label marking shall consist of a border and the word PROPANE in letters not less than 1 in. (25 mm) in height centered in the diamond, of silver or white reflective luminous material on a black or Pantone 2945 C Royal Blue or equivalent background.
12.5.4(5)	additional requirement	Each specific mounting bracket shall be marked in a visible location, to indicate the manufacturer of the bracket.
12.5.13(2)	additional requirement	See Commission rule §9.211(b), Markings.

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
Chapter 14	not adopted	Commission authority does not extend to marine shipping and receiving activities.
15.1	with changes	Scope. This chapter includes requirements related to the operations and maintenance of bulk plant, industrial plant, [~~refrigerated, marine,~~] and pipeline LP-Gas systems. The provisions of this chapter shall be applicable to all new and existing installations. Bulk plants and industrial plants with an aggregate water capacity of 10,000 gallons or more and all pipeline LP-Gas systems shall comply within this chapter. Existing installations shall comply within one year of the effective date of the amendments to §9.403, Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional Requirements.

(b) If a section in NFPA 58 refers to another section in NFPA 58 which the Commission has not adopted, or which the Commission has adopted with additional or alternative language, then persons shall comply with the applicable Commission rule.

CHAPTER 113
TEXAS NATURAL RESOURCES CODE (LP-GAS CODE)

SUBCHAPTER A - GENERAL PROVISIONS

§113.001. Title

This chapter may be cited as the Liquefied Petroleum Gas Code or LPG Code.

§113.002. DEFINITIONS.

In this chapter:

(1) ”Commission” means the Railroad Commission of Texas.

(2) Repealed by Acts 2001, 77th Leg., ch. 1233, Sec.76(2), eff. Sept. 1, 2001.

(3) ”Employee” means any individual who renders or performs any services or labor for compensation and includes individuals hired on a part-time or temporary basis or a full-time or permanent basis including an owner-employee.

(4) ”Liquefied petroleum gas,” “LPG,” or “LP-gas”means any material that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons: propane, propylene, normal butane, isobutane, and butylenes.

(5) ”Container” means any receptacle designed for the transportation or storage of LPG or any receptacle designed for the purpose of receiving injections of LPG for use or consumption by or through an LPG system.

(6) ”Appliance” means any apparatus or fixture that uses or consumes LPG furnished or supplied by an LPG system to which it is connected or attached.

(7) ”LPG system” means all piping, fittings, valves, and equipment, excluding containers and appliances, that connect one or more containers to one or more appliances that use or consume LPG.

(8) ”Transport system” means any and all piping, fittings, valves, and equipment on a transport, excluding the container.

(9) ”Transfer system” means all piping, fittings, valves, and equipment utilized in dispensing LPG between containers.

(10) ”Transport” means any bobtail or semitrailer equipped with one or more containers.

(11) ”Subframing” means the attachment of supporting structural members to the pads of a container but does not include welding directly to or on the container.

(12) ”Representative” means the individual designated to the commission by a license applicant or licensee as the

principal person in authority and, in the case of a licensee other than a category "P" licensee, actively supervising the conduct of the licensee's LPG activities.

(13) "Person" means any individual, partnership, firm, corporation, association, or any other business entity, a state agency or institution, county, municipality, school district, or other governmental subdivision.

(14) "Registrant" means any person exempt from the licensing requirements, as established by rule pursuant to Section 113.081 of this code, who is required to register with the commission, any person qualified by examination by the commission, or any person who applies for registration with the commission.

(15) "Intermodal portable tank" means a portable tank built according to the United States Department of Transportation specifications and designed primarily for international intermodal use.

(16) "Intermodal container" means a freight container designed and constructed for interchangeable use in two or more modes of transport.

(17) "Mobile fuel system" means an LPG system, excluding the container, to supply LP-gas as a fuel to an auxiliary engine other than the engine to propel the vehicle or for other uses on the vehicle.

(18) "Mobile fuel container" means an LPG container mounted on a vehicle to store LPG as the fuel supply to an auxiliary engine other than the engine to propel the vehicle or for other uses on the vehicle.

(19) "Motor fuel system" means an LPG system, excluding the container, to supply LP-gas as a fuel to an engine used to propel the vehicle.

(20) "Motor fuel container" means an LPG container mounted on a vehicle to store LPG as the fuel supply to an engine used to propel the vehicle.

(21) "Portable cylinder" means a receptacle constructed to United States Department of Transportation specifications, designed to be moved readily, and used for the storage of LPG for connection to an appliance or an LPG system. The term does not include a cylinder designed for use on a forklift or similar equipment.

§113.003. EXCEPTIONS.

(a) None of the provisions of this chapter apply to:

(1) the production, refining, or manufacture of LPG;

(2) the storage, sale, or transportation of LPG by pipeline or railroad tank car by a pipeline company, producer, refiner, or manufacturer;

(3) equipment used by a pipeline company, producer, refiner, or manufacturer in a producing, refining, or manufacturing process or in the storage, sale, or transportation by pipeline or railroad tank car;

(4) any deliveries of LPG to another person at the place of production, refining, or manufacturing;

(5) underground storage facilities other than LP-gas containers designed for underground use;

(6) any LP-gas container having a water capacity of one gallon or less, or to any LP-gas piping system or appliance attached or connected to such container; or

(7) a railcar loading rack used by a pipeline company, producer, refiner, or manufacturer.

(b) Nothing in Subsection (a) of this section shall be construed to exempt truck loading racks from the jurisdiction of the commission under this chapter.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§113.011. REGULATION OF LIQUEFIED PETROLEUM GAS ACTIVITIES.

The commission shall administer and enforce the laws of this state and the rules and standards of the commission relating to liquefied petroleum gas.

§113.014. EMPLOYEES.

Sufficient employees shall be provided for the enforcement of this chapter.

§113.015. FUNDS FOR FINANCING REGULATION OF LPG ACTIVITIES.

The commission shall look only to the revenue derived from the operation of this chapter and appropriated by the legislature for expenses of regulating liquefied petroleum gas activities and administering this chapter.

SUBCHAPTER C. RULES AND STANDARDS

§113.051. ADOPTION OF RULES AND STANDARDS.

Except as provided in Section 113.003 of this code, the commission shall promulgate and adopt rules or standards or both relating to any and all aspects or phases of the LPG industry that will protect or tend to protect the health, welfare, and safety of the general public.

§113.0511. LIMITATIONS ON RULEMAKING AUTHORITY.

(a) The commission may not adopt rules restricting advertising or competitive bidding by a licensee except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a licensee's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the licensee; or

(4) restricts the licensee's advertisement under a trade name.

§113.052. ADOPTION OF NATIONAL CODES.

The commission may adopt by reference, in whole or in part, the published codes of the National Board of Fire Underwriters, the National Fire Protection Association, the American Society for Mechanical Engineers, and other nationally recognized societies or any one or more of these codes as standards to be met in the design, construction, fabrication, assembly, installation, use, and maintenance of containers, tanks, appliances, systems, and equipment for the transportation, storage, delivery, use, and consumption of LPG or any one or more of these purposes.

§113.053. EFFECT ON CERTAIN CONTAINERS.

Rules, standards, and codes adopted pursuant to Sections 113.051 through 113.052 of this code do not apply to containers used in accordance with and subject to the regulations of the United States Department of Transportation or to containers that are owned or used by the United States government.

§113.054. EFFECT ON OTHER LAW.

The rules and standards promulgated and adopted by the commission under Section 113.051 preempt and supersede any ordinance, order, or rule adopted by a political subdivision of this state relating to any aspect or phase of the liquefied petroleum gas industry. A political subdivision may petition the commission's executive director for permission to promulgate more restrictive rules and standards only if the political subdivision can prove that the more restrictive rules and standards enhance public safety.

SUBCHAPTER D. LICENSING AND REGISTRATION

§113.080. DEFINITIONS.

In this subchapter:

(1) "Carrier" means a person licensed for transportation of LP-gas by transport, including the loading and unloading of LP-gas, and the installation and repair of transport systems.

(2) "Portable cylinder exchange service" means an operation conducted under a commission license for the sale of LP-gas in portable cylinders that are not filled on site and that have an LP-gas capacity not greater than 21 pounds.

(3) ”Retail and wholesale dealer” means a person licensed for any LP-gas activity except:

(A) the assembly, repair, subframing, or testing of LP-gas containers; or

(B) the sale or installation of motor fuel systems or mobile fuel systems that have an engine with a rating of more than 25 horsepower.

(4) ”Testing laboratory” means a person licensed for testing containers, motor fuel systems or mobile fuel systems, transfer systems, or transport systems for the purpose of determining the safety of the containers or systems for LP-gas service, including the necessary installation, disconnection, reconnection, testing, or repair of motor fuel systems or mobile fuel systems, transfer systems, or transport systems involved in the testing of containers.

(5) ”Transport outfitter” means a person licensed to:

(A) subframe, test, or sell LP-gas transport containers;

(B) test LP-gas storage containers;

(C) install, test, or sell motor fuel containers and systems or mobile fuel containers and systems;

(D) install transport systems; or

(E) repair transport systems, motor fuel systems, or mobile fuel systems.

§113.081. LICENSE REQUIREMENT.

(a) Unless otherwise stated in this chapter, a person may not engage in any of the following activities unless that person has obtained a license from the commission authorizing that activity:

(1) container activities: the assembly, repair, testing, sale, installation, or subframing of containers for use in this state, except that a license is not required for the sale of a new container of 96 pounds water capacity or less;

(2) systems activities: the installation, service, and repair of systems for use in this state, including the laying or connecting of pipes and fittings connecting with or to systems or serving a system and appliances to be used with LP-gas as a fuel;

(3) appliance activities: the service, installation, and repair of appliances used or to be used in this state in connection with systems using LP-gas as a fuel, except that a license is not required for installation or connection of manufactured unvented appliances to LP-gas systems by means of LP-gas appliance connectors, or where only duct or electrical work is performed to or on an LP-gas appliance; or

(4) product activities: the sale, transportation, dispensation, or storage of LP-gas in this state, except that a license is not required to sell LP-gas where the vendor never obtains possessory rights to the product sold or where the product is transported or stored by the ultimate consumer for personal consumption only.

(b) The licensing requirements of Subsection (a) apply to a person other than a political subdivision who installs

or services a motor fuel system or mobile fuel system on a motor vehicle used in the transportation of the general public. Subsections (a)(1) and (a)(2) do not apply to intermodal containers or intermodal portable tanks constructed in accordance with United States Department of Transportation specifications.

(c) The licensing requirements of Subsection (a) do not apply to a mobile home park operator who does not obtain any possessory rights to LP-gas products, and utilizes only LP-gas licensees in the installation and maintenance of the LP-gas containers and system. For purposes of this subsection, the term "mobile home park operator" means an individual or business entity owning or operating a place, divided into sites, at which the primary business is the rental or leasing of the sites to persons for use in occupying mobile homes as dwellings. "Mobile home" has the meaning set out in Chapter 1201, Occupations Code.

(d) The commission by rule may exempt journeymen or master plumbers licensed by the Texas State Board of Plumbing Examiners from the license requirements of Subsection (a).

(e)The commission by rule may exempt a person licensed under Chapter 1302, Occupations Code, from the license requirements of Subsection (a).

(f) No license is required by an original manufacturer of a new motor vehicle powered by LPG or subcontractor of such a manufacturer who produces a new LPG-powered vehicle for the manufacturer.

(g) The commission by rule may establish reasonable conditions for licensing and exemptions from license requirements for a state agency or institution, county, municipality, school district, or other governmental subdivision.

§113.0815. REGISTRATION OF CONTAINER MANUFACTURERS AND FABRICATORS.

(a) A person may not engage in the manufacture or fabrication of containers for use in this state unless the person registers with the commission in accordance with rules adopted by the commission.

(b) A registration under this section must be renewed annually.

§113.082. CATEGORIES OF LP-GAS ACTIVITIES; FEES.

(a) The commission by rule shall establish license categories for LP-gas activities.

(b) The commission by rule shall establish reasonable application and original license fees and renewal fees for each type of license category established under Subsection (a).

§113.083. LIQUEFIED PETROLEUM GAS EMERGENCY.

(a) In the event of a temporary statewide, regional, or local shortage of liquid petroleum gas in this state or another state, as determined under Subsection (b) of this section, LP gas trucks and operators meeting all certification, permitting, and licensing requirements of the federal government and another state whose governor has declared an LP gas emergency

may transport LP gas in this state without having first obtained any license, permit, or certification ordinarily required under state law.

(b) The governor may determine the existence of a temporary statewide, regional, or local shortage of LP gas in this state or another state and on such a determination, the governor may join with the governor of any other state in declaring an LP gas emergency.

(c) The waiver of Texas licensing, permitting, and certification requirements regarding LP gas trucks and operators is valid only during the time of the emergency. An LP gas emergency may not continue for more than 14 days unless renewed by the governor.

§113.084. APPLICATION.

(a) An application for a license shall be submitted to the commission on forms furnished by the commission or on a facsimile of those forms.

(b) A prospective licensee shall submit the required application together with the original nonrefundable license fee established by the commission under Section 113.082 for each type of license category for which an application is made. The applicant shall submit additional information and data with each application as the commission may reasonably require.

(c) A licensee shall submit the nonrefundable renewal fee for each type of license sought along with information and data the commission may reasonably require.

§113.087. COURSE OF INSTRUCTION, EXAMINATION, AND SEMINAR REQUIREMENTS.

(a) The satisfactory completion of the requirements of this section is mandatory, and operations requiring an LP-gas license may not commence, continue, or resume unless examination and seminar requirements are fulfilled. The commission shall prepare, administer, and grade or review an examination required by this section or contract with a testing service to prepare, administer, and grade or review the examination.

(b) Before license issuance, the commission shall require the individual designated as the licensee's representative to the commission to provide good and sufficient proof through examination of working knowledge of this chapter and rules of the commission which affect the type of license for which application is made. Thereafter, each licensee shall maintain a qualified representative at all times.

(c) An individual who will be actively supervising operations that require a license under this chapter, other than a portable cylinder exchange service, at any outlet or location, shall be required to provide good and sufficient proof through examination that the supervisor has a working knowledge of the safety requirements and penalties in this chapter and the rules of the commission which apply to that type of license. A licensee who provides portable cylinders to a licensee operating a portable cylinder exchange service shall:

(1) prepare or obtain a manual approved by the commission covering the proper procedures for handling LP-gas in the portable cylinder exchange process;

(2) provide a copy of the manual to each outlet or location of the licensee operating the portable cylinder exchange service; and

(3) provide training approved by the commission regarding the contents of the manual to each individual who will be actively supervising operation of the portable cylinder exchange service at each outlet or location.

(d) As determined by commission rule, each individual who is or will be utilized by a licensee or a public employee of the state, the federal government, or a state or federal subdivision in LPG-related activities shall be required to provide good and sufficient proof through examination that the employee has a working knowledge of the safety requirements in the rules of the commission relating to the activity or activities. Should the commission determine that an individual has a history of failure to comply with the requirements of this code or with the rules of the commission, the commission shall promptly notify the individual in writing of failure to qualify for LP-gas employee certification and the reasons therefor. Written notice by the commission, a written request for a hearing, and the public hearing itself shall be governed by Section 113.091.

(e) No licensee may employ or otherwise utilize any person as a representative to the commission, nor as a supervisor or employee in LPG-related activities, unless and until the person has qualified by satisfactory completion of the examination or training requirements, as applicable, established by this section.

(f) The commission shall promulgate rules relating to changes in representatives, supervisors, and employees, and may permit temporary exemption from the examination or training requirements, as applicable, for a maximum period of 45 days.

(g) In no event shall an original or renewal license be issued to an applicant whose listed representative has not maintained qualified status, as defined by rule, or to any person who has a history of failure to comply with the requirements of this code or with the rules of the commission. The commission shall have written notification of license denial and the reasons therefor prepared promptly and provided to both the representative and the license applicant. Written notice by the commission, a written request for a hearing, and the public hearing itself shall be governed by Section 113.091.

(h) Satisfactory completion of any required examination or training under this section shall accrue to the individual.

(i) Not later than the 30th day after the date a person takes a licensing examination under this chapter, the commission shall notify the person of the results of the examination.

(j) If the examination is graded or reviewed by a testing service:

(1) the commission shall notify the person of the results of the examination not later than the 14th day after the date the commission receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the commission shall notify the person of the reason for the delay before the 90th day.

(k) The commission may require a testing service to notify a person of the results of the person's examination.

(l) If requested in writing by a person who fails a licensing examination administered under this chapter, the commission shall furnish the person with an analysis of the person's performance on the examination.

(m) The commission by rule may require, in addition to examination requirements as set out in Subsections (b), (c), and (d):

(1) an examination for technical competence that is validated by a recognized educational testing organization or similar organization; or

(2) attendance at approved academic, trade, professional, or commission-sponsored seminars or other continuing education programs.

(n) Prior to qualifying an individual to perform LP-gas work, the commission may establish by rule an initial course of instruction for any person who has not yet passed the examination for the LPG activity for which the person seeks qualification; for any person who has not maintained qualified status, as defined by rule; and for any person whose certification has been revoked pursuant to Subchapter F of this code. If an initial course of instruction is established by the commission, it shall be available at least once every 180 days.

(o) The commission by rule may exempt from any provision of this section:

(1) a journeyman or master plumber licensed by the Texas State Board of Plumbing Examiners;

(2) a person licensed under Chapter 1302, Occupations Code; or

(3) company representatives, operations supervisors, or employees of a testing laboratory that was registered under Section 113.135 prior to the effective date of this subsection.

§113.088. EXAMINATION; SEMINAR FEES.

(a) The commission shall establish reasonable examination, course of instruction, and seminar registration fees.

(b) Before seminar attendance or examination of any person, except as provided by this subsection or Subsection (c), the commission shall receive a nonrefundable fee for each examination or seminar registration. If the examination is administered by a testing service, the testing service may administer the examination before the commission receives the fee. A testing service that administers an examination shall collect a nonrefundable fee for the examination before the examination is administered and shall forward the fee to the commission not later than the fifth business day after the date the testing service receives the fee.

(c) The commission may exempt voluntary firemen, or public employees of the State of Texas, federal government, or state or federal subdivisions from the examination fee, the examination renewal fee, and seminar fees.

§113.089. SPECIAL REQUIREMENTS FOR LICENSING.

(a) If application is made for a license by a retail and wholesale dealer or for any other type of license specified by commission rule, the commission, in addition to other requirements, shall have an actual inspection conducted of any and all facilities, bulk storage equipment, transportation equipment, and dispensing equipment of the applicant to verify satisfactory compliance with all current safety laws, rules, and practices. The inspection may be waived by the

commission on an application resulting solely from a change in legal entities under which a current licensee operates.

(b) The inspection, if required, shall be performed before the issuance of the license, but in no event later than 15 days after the inspection is requested in writing by the applicant for license.

(c) A license for which an inspection under Subsection (a) is required may not be issued until the inspection verifies the applicant to be in satisfactory compliance with all current safety laws, rules, and practices.

§113.090. FILING AND REGISTRATION FEES.

(a) The commission by rule may establish reasonable fees for the review of site applications related to the installation of containers when site applications are reviewed by the commission before such installation is placed into LP-gas service.

(b) The commission by rule may establish reasonable fees for recording the location of containers at public buildings and commercial installations when prior approval of site applications is not required.

(c) The commission by rule may establish reasonable fees for any registration required under this code.

§113.091. LICENSE DENIAL.

(a) If an applicant fails to meet the requirements for original or renewal licensing set out in this chapter, the commission shall promptly send notice to the applicant specifying the reason for the applicant's failure to qualify for license and advising the applicant of the right to request a hearing.

(b) Within 30 days of the notice of denial, an applicant for license under this chapter who is denied a license may request a hearing to determine whether or not the applicant has complied in all respects with the licensing procedure applicable to each type of license sought. The applicant's request for hearing must be in writing and delivered to the commission.

(c) A hearing to determine an applicant's compliance with the licensing procedure applicable to each type of license sought must be scheduled within 30 days following receipt of a request under Subsection (b) of this section.

(d) If the record made at the hearing supports the applicant's claim, the commission shall enter an order in its records to that effect, noting each type of license to which the applicant is found entitled, and the commission shall have the license or licenses issued. If the applicant is found unqualified, the commission shall likewise enter an order in its records to that effect, and no license may be issued to the applicant.

§113.092. LICENSE ISSUANCE.

(a) The commission shall issue the appropriate license to an applicant who has satisfied the licensing procedures and requirements set out in this chapter and in the rules of the commission, except as otherwise provided for in Section 113.163.

(b) The license shall be issued in the name under which the applicant proposes to conduct business.

(c) The license shall belong to the applicant to which it is issued and shall be nontransferable.

§113.093. LICENSE RENEWAL.

(a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the commission before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the commission a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the commission a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(e) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person must pay to the commission a fee that is equal to two times the normally required renewal fee for the license.

(f) Not later than the 30th day before the date a person's license is scheduled to expire, the commission shall send written notice of the impending expiration to the person at the person's last known address according to the records of the commission.

(g) A renewal license will be issued to a licensee as soon as is practicable after compliance with this section, and fulfillment of insurance, examination, and seminar requirements established by this chapter, and submission of any information and data the commission may reasonably require.

(h) Renewal fees shall be nonrefundable.

§113.094. STAGGERED RENEWAL OF LICENSES.

The commission, by rule, may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees payable on a specified date shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

§113.095. LICENSE AND EXAMINATION BY ENDORSEMENT.

(a) The commission may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

(b) The commission by rule may waive the requirements of Section 113.087 for an applicant holding a valid examination certificate issued by another state having certification requirements substantially equivalent to those of this state.

§113.096. PROVISIONAL LICENSE.

(a) The commission may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who:

(1) has been licensed in good standing for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the commission relating to the activities regulated under this chapter; and

(3) is sponsored by a person licensed by the commission under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The commission may waive the requirement of Subsection (a)(3) for an applicant if the commission determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license is valid until the date the commission approves or denies the provisional license holder's application for a license. The commission shall issue a license under this chapter to the provisional license holder if:

(1) the provisional license holder is eligible to be licensed under Section 113.095; or

(2) the provisional license holder:

(A) passes the part of the examination under Section 113.087 that relates to the applicant's knowledge and understanding of the laws and rules relating to the activities regulated under this chapter in this state;

(B) meets the academic and experience requirements for a license under this chapter; and

(C) satisfies any other licensing requirements under this chapter.

(d) The commission must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The commission may extend the 180-day period if the results of an examination have not been received by the commission before the end of that period.

(e) The commission may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

§113.097. INSURANCE REQUIREMENT.

(a) The commission shall not issue a license authorizing LP-gas activities or renew an existing license unless the applicant for license or license renewal provides proof of required insurance coverage with an insurance carrier

authorized to do business in this state as evidenced by a certificate of authority having been issued to the carrier by the Texas Department of Insurance or, if the applicant is unable to obtain coverage from such a carrier, provides, on approval of the commission, proof of required insurance coverage issued by a surplus lines insurer that meets the requirements of Chapter 981, Insurance Code, and rules adopted by the commissioner of insurance under that chapter.

(b) A licensee may not perform an LP-gas activity licensed by the commission unless the insurance coverage required by this chapter is in effect.

(c) Except as provided in Section 113.099, the types and amounts of insurance provided in Subsections (d) through (i) are required while engaged in an LP-gas activity licensed by the commission or any activity incidental thereto.

(d) A person licensed to transport LP-gas must carry motor vehicle bodily injury and property damage liability coverage on each motor vehicle, including trailers and semitrailers, used to transport LP-gas. The commission shall establish by rule a reasonable amount of coverage to be maintained, except that coverage may not be less than the amounts required as evidence of financial responsibility under Chapter 601, Transportation Code.

(e) All licensees must carry general liability coverage in a reasonable amount, based on the type or types of licensed activities, which shall be established by commission rule.

(f) A licensee, other than a licensee operating a portable cylinder exchange service, must acquire and maintain appropriate workers ' compensation or coverage for its employees under policies of work-related accident, disability, and health insurance, including coverage for death benefits, from an insurance carrier authorized to provide coverage in this state, in the amounts required by the commission.

(g) Notwithstanding Subsection (f) of this section, a state agency or institution, county, municipality, school district, or other governmental subdivision may submit appropriate evidence of workers ' compensation coverage by self-insurance if permitted by the state workers ' compensation act. The commission may require forms of evidence of coverage for this purpose other than that required under Section 113.098 of this code.

(h) As required by commission rule, a person registered under Section 113.0815 or licensed as a transport outfitter, carrier, retail and wholesale dealer, or testing laboratory must carry completed operations or products liability insurance, or both, in a reasonable amount, based on the type or types of registered or licensed activities.

(i) The commission by rule may exempt or provide reasonable alternatives to the insurance requirements set forth in Subsections (a) through (e) and (h) of this section for a state agency or institution, county, municipality, school district, or other governmental subdivision.

(j) The commission by rule may exempt from the insurance requirements of this section or adopt a reasonable alternative to those requirements for:

(1) a master or journeyman plumber licensed by the Texas State Board of Plumbing Examiners; or

(2) a person licensed under Chapter 1302, Occupations Code.

(k) The commission by rule may allow a licensee to self-insure under Subsection (d), (e), or (f) and by rule shall establish standards for that self-insurance.

§113.098. INSURANCE CONDITIONS.

(a) As evidence that required insurance has been secured and is in force, certificates of insurance which are approved by the commission shall be filed with the commission before licensing, license renewal, and during the entire period that the license is in effect. Any document filed with the commission in a timely manner which is not completed in accordance with the instructions indicated on the insurance certificate forms supplied by the commission, but which complies with the substantive requirements of this section and with the rules adopted under this section may be considered by the commission to be evidence that required insurance has been secured and is in force for a temporary period not to exceed 45 days. During this temporary period, a licensee shall file with the commission an amended certificate of insurance which complies with all procedural and substantive requirements of this section and the rules adopted hereunder.

(b) All certificates filed under this section shall be continuous in duration.

(c) Cancellation of a certificate of insurance becomes effective on the occurrence of any of the following events and not before:

(1) commission receipt of written notice stating the insurer's intent to cancel a policy of insurance and the passage of time equivalent to the notice period required by law to be given the insured before the insurance cancellation;

(2) receipt by the commission of an acceptable replacement insurance certificate;

(3) voluntary surrender of a license and the rights and privileges conferred by the license;

(4) commission receipt of a statement made by a licensee stating that the licensee is not actively engaging in any operations which require a particular type of insurance and will not engage in those operations unless and until all certificates of required insurance applicable to those operations are filed with the commission; or

(5) written order of commission.

(d) Cancellation under Subsection (c) of this section shall not become effective until approved by the commission.

§113.099. STATEMENTS IN LIEU OF INSURANCE CERTIFICATES.

(a) A person licensed to transport LP-gas that does not operate or contemplate the operation of a motor vehicle equipped with an LP-gas cargo container and does not transport or contemplate the transportation of LP-gas by vehicle in any manner, may make and file with the commission a statement to that effect in lieu of filing a certificate of motor vehicle bodily injury and property damage insurance.

(b) A licensee or an applicant for a license that does not engage in or contemplate engaging in any operations which would be covered by general liability insurance for a period of time may make and file with the commission a statement to that effect in lieu of filing a certificate of general liability insurance.

(c) A licensee or an applicant for a license that does not employ or contemplate the hiring of an employee or employees to be engaged in LPG-related activities in this state may make and file with the commission a statement to that effect in lieu of filing evidence of coverage of workers ' compensation or other alternative form of coverage as provided in this

subchapter.

(d) A person registered under Section 113.0815 or licensed as a transport outfitter, carrier, retail and wholesale dealer, or testing laboratory that does not engage in or contemplate engaging in any LP-gas operations which would be covered by completed operations or products liability insurance, or both, for a period of time may make and file with the commission a statement to that effect in lieu of filing a certificate of insurance.

(e) Any statement filed pursuant to Subsections (a) through (d) of this section must further state that the licensee or applicant agrees to file a certificate of insurance evidencing appropriate coverage before engaging in any activities that require insurance coverage under this subchapter.

SUBCHAPTER E. MOTOR VEHICLES AND TESTING LABORATORIES

§113.131. TRANSPORT TRUCKS AND TRAILERS.

(a) Each transport truck, trailer, or other motor vehicle equipped with an LPG cargo container and each truck used principally for transporting LPG in portable containers shall be registered with the commission.

(b) A licensee who has purchased, leased, or obtained other rights to use any unit described in Subsection (a) of this section shall register that unit in the name or names under which the licensee conducts business before the transportation of LPG by means of that unit.

(c) An ultimate consumer of LPG who has purchased, leased, or obtained other rights to use any unit described in Subsection (a) of this section shall register that unit in the person's name before the transportation of LPG by means of that unit on public roads or highways.

(d) The commission, by rule, shall establish reasonable, nonrefundable annual registration and transfer fees for each LP-gas cargo trailer, semitrailer, bobtail, and cylinder-delivery unit registered or transferred as follows:

(1) the annual registration fee established by the commission shall not be less than $100 nor more than $300.

(2) the annual transfer fee established by the commission shall not be less than $25 nor more than $100.

(e) Any unit registered pursuant to this section shall be covered by motor vehicle bodily injury and property damage liability insurance as prescribed by Section 113.097 of this code.

(f) Any delivery or transport driver shall meet the applicable examination and seminar requirements set out in Section 113.087 of this code.

§113.133. MOTOR CARRIER LAWS.

No provision of this chapter shall be construed to modify, amend, or revoke any motor carrier law of this state.

§113.134. DEPARTMENT OF PUBLIC SAFETY.

The Department of Public Safety shall cooperate with the commission in the administration and enforcement of this chapter and the rules promulgated under this chapter to the extent that they are applicable to motor vehicles.

SUBCHAPTER F. LICENSE AND REGISTRATION FOR AN EXEMPTION: DENIAL AND DISCIPLINARY ACTION

§113.161. VIOLATIONS OF CHAPTER OR RULES; INFORMAL ACTIONS.

(a) The commission shall notify a licensee or registrant in writing when it finds probable violation or noncompliance with this chapter or the safety rules promulgated under this chapter.

(b) The notification shall specify the particular acts, omissions, or conduct comprising the alleged violation and shall designate a date by which the violation must be corrected or discontinued.

(c) The licensee or registrant shall report timely compliance or shall request extension of time for compliance if deemed necessary.

(d) If a licensee or registrant objects to the complaint or requirements under this section, or if the commission determines that the licensee or registrant is not proceeding adequately to compliance, then, on written request of the licensee or registrant or order of the commission, a public hearing shall be conducted as provided in Section 113.162 of this code.

(e) If the commission determines that the probable violation or noncompliance constitutes an immediate danger to the public health, safety, and welfare, it shall require the immediate cessation of the probable violation or noncompliance and proceed with a hearing as provided in Section 113.162.

§113.162. HEARINGS.

Any hearing or proceeding under this chapter shall be subject to the provisions of the Administrative Procedure and Texas Register Act.

§113.163. DENIAL, REFUSAL TO RENEW, OR REVOCATION OF LICENSE OR REGISTRATION FOR AN EXEMPTION IN EVENT OF VIOLATION.

(a) Except as provided by Subsections (d) and (f), the commission may not approve an application for a license under this chapter or approve a registration for an exemption under Section 113.081(d) or (e) if:

(1) the applicant or registrant for an exemption has violated a statute or commission rule, order, license, permit, or certificate that relates to safety; or

(2) a person who holds a position of ownership or control in the applicant or registrant for an exemption has held a position of ownership or control in another person during the seven years preceding the date on which the application or registration for an exemption is filed and during that period of ownership or control the other person violated a statute or commission rule, order, license, permit, or certificate that relates to safety.

(b) An applicant, registrant for an exemption, or other person has committed a violation described by Subsection (a) if:

(1) a final judgment or final administrative order finding the violation has been entered against the applicant, registrant for an exemption, or other person and all appeals have been exhausted; or

(2) the commission and the applicant, registrant for an exemption, or other person have entered into an agreed order relating to the alleged violation.

(c) Regardless of whether the person's name appears or is required to appear on an application or registration for an exemption, a person holds a position of ownership or control in an applicant, registrant for an exemption, or other person if:

(1) the person is:

(A) an officer or director of the applicant, registrant for an exemption, or other person;

(B) a general partner of the applicant, registrant for an exemption, or other person;

(C) the owner of a sole proprietorship applicant, registrant for an exemption, or other person;

(D) the owner of at least 25 percent of the beneficial interest in the applicant, registrant for an exemption, or other person; or

(E) a trustee of the applicant, registrant for an exemption, or other person; or

(2) the applicant, registrant for an exemption, or other person has been determined by a final judgment or final administrative order to have exerted actual control over the applicant, registrant for an exemption, or other person.

(d) The commission shall approve an application for a license under this chapter or for a registration for an exemption under Section 113.081(d) or (e) if:

(1) the conditions that constituted the violation are corrected or are being corrected in accordance with a schedule to which the commission and the applicant, registrant for an exemption, or other person have agreed;

(2) all administrative, civil, and criminal penalties are paid or are being paid in accordance with a payment schedule to which the commission and the applicant, registrant for an exemption, or other person have agreed; and

(3) the application or registration for an exemption is in compliance with all other requirements of law and commission rules.

(e) If an application or registration for an exemption is denied under this section, the commission shall provide the applicant or registrant for an exemption with a written statement explaining the reason for the denial.

(f) Notwithstanding Subsection (a), the commission may issue a license to an applicant described by Subsection (a) or approve a registration for an exemption for a registrant for an exemption described by that subsection for a term specified by the commission if the license or registration for an exemption is necessary to remedy a violation of law or commission rules.

(g) A fee tendered in connection with an application or registration for an exemption that is denied under this section is nonrefundable.

(h) If the commission is prohibited by Subsection (a) from approving an application for a license or a registration for an exemption or would be prohibited from doing so by that subsection if the applicant, licensee, or registrant for an exemption submitted an application or registration for an exemption, the commission, after notice and opportunity for a hearing, by order may refuse to renew or may revoke a license or registration for an exemption issued to the applicant, licensee, or registrant for an exemption under this chapter. The commission may not revoke or refuse to renew a license or registration for an exemption under this subsection if the commission finds that the applicant, licensee, or registrant for an exemption has fulfilled the conditions set out in Subsection (d).

(i) An order issued under Subsection (h) must provide the applicant, licensee, or registrant for an exemption a reasonable period to comply with the judgment or order finding the violation before the order takes effect.

(j) On refusal to renew or revocation of a person's license or registration for an exemption under Subsection (h), the person may not perform any activities under the jurisdiction of the commission under this chapter, except as necessary to remedy a violation of law or commission rules and as authorized by the commission under a license or registration for an exemption issued under Subsection (f).

(k) In determining whether to refuse to renew or to revoke a person's license or registration for an exemption under Subsection (h), the commission shall consider the person's history of previous violations, the seriousness of previous violations, any hazard to the health or safety of the public, and the demonstrated good faith of the person.

(l) Refusal to renew or revocation of a person's license or registration for an exemption under Subsection (h) does not relieve the person of any existing or future duty under law, rules, or license or registration conditions.

SUBCHAPTER G. FEES AND FUNDS

§113.201. DEPOSIT AND EXPENDITURE OF FEES AND FUNDS.

Money received by the commission under this chapter shall be deposited in the state treasury to the credit of the General Revenue Fund and spent in accordance with the appropriations made by law.

SUBCHAPTER H. ENFORCEMENT

§113.231. INJUNCTIONS.

(a) On request of the commission, the attorney general may bring an action in the name and on behalf of the state to

enjoin a person from committing any act that violates or does not comply with any provision of this chapter or of any rule promulgated under this chapter.

(b) A suit for injunction instituted pursuant to Subsection (a) of this section shall be in addition to any other remedies at law or in equity.

(c) A district court of any county in which it is shown that all or part of the acts have been or are about to be committed has jurisdiction of an action brought under Subsection (a) of this section.

(d) No bond for injunction may be required of the commission or the attorney general in relation to a proceeding instituted pursuant to Subsection (a) of this section.

§113.232. GENERAL PENALTY.

(a) In addition to injunctive relief and other penalties provided in this chapter, a person who knowingly violates or fails to comply with this chapter or rules adopted under this chapter is guilty of a Class C misdemeanor and is punishable by a fine of not less than $100 nor more than the maximum fine as set out in Section 12.23 of the Penal Code.

(b) A person previously convicted under Subsection (a) of this section who knowingly violates or fails to comply with this chapter is guilty of a Class A misdemeanor punishable by a fine of not less than the maximum fine allowed by law for a Class C misdemeanor, nor more than the maximum fine as set out in Section 12.21 of the Penal Code.

(c) A penalty prescribed by this section is in addition to injunctive relief and other penalties provided by this chapter.

(d) Each day the violation or failure to comply continues constitutes a separate offense.

§113.233. ENTRY FOR INSPECTION AND INVESTIGATION.

(a) An inspector, employee, or agent of the commission may enter the premises of a licensee under this chapter or any building or other premises open to the public at any reasonable time for the purpose of determining and verifying compliance with this chapter and the safety rules of the commission. This same authority shall extend to private property with the permission of the owner of such private property or an authorized agent of the owner.

(b) Any authorized representative of the commission may enter any buildings or premises where an accident has occurred in which LP-gas was a probable cause for purposes of investigating the cause, origin, and circumstances of such accident. The commission may request that any state or local authority having jurisdiction take appropriate action, to the extent permitted by law, as may be necessary for preservation of property and premises.

§113.234. WARNING TAG.

An inspector, employee, or agent of the commission may declare any container, appliance, equipment, transport, system, or LP-gas operation that does not conform to the safety requirements of this chapter or rules adopted under this chapter, or which is otherwise defective, as unsafe or dangerous for LP-gas service and shall attach a warning tag in a conspicuous location.

§113.235. SUPPLYING OR REMOVING LPG AFTER WARNING TAG ATTACHED.

(a) Any person who knowingly sells, furnishes, delivers, or supplies LPG for storage in or use or consumption by or through a container, appliance, transport, or system to which a warning tag is attached is guilty of a misdemeanor and on conviction is punishable by a fine of not less than $50 and not more than $2,000.

(b) LP-gas shall be removed from a container to which a warning tag is attached only under the direction of the commission.

(c) In an emergency situation and for immediate need, the commission may allow a reasonable amount of LP-gas to be introduced into a container or may allow an LP-gas system or an LP-gas appliance to be placed into LP-gas service, for a reasonable time period provided the reasons for the warning tag have been eliminated.

§113.236. PENALTY FOR UNAUTHORIZED REMOVAL OF TAG.

An unauthorized person who knowingly removes, destroys, or in any way obliterates a warning tag attached to a container, appliance, transport, or system is guilty of a misdemeanor and on conviction is punishable by a fine of not less than $50 and not more than $2,000.

SUBCHAPTER K. LIABILITY OF LICENSE HOLDER

§113.301. LIMITATION OF LIABILITY OF LICENSED INSTALLER OR SERVICER.

A person is not liable for damages caused solely by a malfunction or the installation, modification, or improper operation of an LPG system that the person delivered for installation, installed, or serviced in a residential, commercial, or public building or in a motor vehicle if:

(1) the person was licensed by the commission to perform the installation or service or was a registrant;

(2) the delivery, installation, or service was performed in compliance with the safety rules and standards adopted by the commission;

(3) the person has no control over the operation or use of the LPG system;

(4) the person was not negligent; and

(5) the person did not supply a defective product which was a producing cause of harm.

SUBCHAPTER L. TESTING OF LP-GAS SYSTEMS IN SCHOOL FACILITIES

§113.351. DEFINITIONS.

In this subchapter:

(1)"School district" means:

(A) an entity created under the laws of this state and accredited by the Texas Education Agency under Subchapter D, Chapter 39, Education Code;

(B) a private elementary or secondary school, other than a school in a residence; or

(C) a state or regional school for the blind and visually impaired or the deaf under Chapter 30, Education Code.

(2) "Supplier" means an individual or company that sells and delivers liquefied petroleum gas to a school district facility. If more than one individual or company sells and delivers LP-gas to a facility of a school district, each individual or company is a supplier for purposes of this subchapter.

§113.352. DUTY TO TEST FOR LEAKAGE.

(a) Each school district shall perform leakage tests for leakage on the LP-gas piping system in each school district facility at least biennially. The tests must be performed before the beginning of the school year.

(b) The school district may perform the leakage tests on a two-year cycle under which the tests are performed for the LP-gas piping systems of approximately one-half of the facilities each year.

(c) If a school district operates one or more school district facilities on a year-round calendar, the leakage test in each of those facilities must be conducted and reported not later than July 1 of the year in which the test is performed.

(d) A test performed under a municipal code satisfies the pressure testing requirements prescribed by this section.

§113.353. REQUIREMENTS OF TEST.

(a) The school district shall perform the leakage test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the commission.

(b) The leakage test must be conducted in accordance with commission rules.

(c) At the request of a school district, the commission shall assist the district in providing for the certification of an employee of the school district or school, as applicable, to conduct the test and in developing a procedure for conducting

the test.

§113.354. NOTICE OF TEST.

(a) A school district shall retain documentation specifying the date and the result of each leakage test or other inspection of each LP-gas piping system until at least the fifth anniversary of the date the test or other inspection was performed.

(b)Before the introduction of any LP-gas into the LP-gas piping system, the school district shall provide verification to the district's supplier that the piping has been tested in accordance with this subchapter.

(c)The commission may review a school district's documentation of each leakage test or other inspection conducted by the school district.

§113.355. TERMINATION OF SERVICE.

A supplier shall terminate service to a school district facility if:

(1) the supplier receives official notification from the firm or individual conducting the test of a hazardous leakage in the facility LP-gas piping system; or

(2) a test at the facility is not performed as required by this subchapter.

§113.356. REPORT TO BOARD OF TRUSTEES.

An identified LP-gas leakage in a school district facility shall be reported to the board of trustees of the district in which the facility is located.

§113.357. ENFORCEMENT.

The commission shall enforce this subchapter.

SUBCHAPTER M. CONSUMER SAFETY NOTIFICATION

Sec. 113.401. NOTICE REQUIRED.

(a) A person holding a license to install or repair an LPG system who sells, installs, or repairs an LPG system, piping or other equipment that is part of a system, or an appliance that is connected or attached to a system shall provide the following notice to the purchaser or owner of the system, piping or other equipment, or appliance:

WARNING: Flammable Gas. The installation, modification, or repair of an LPG system by a person who is not

licensed or registered to install, modify, or repair an LPG system may cause injury, harm, or loss. Contact a person licensed or registered to install, modify, or repair an LPG system. A person licensed to install or repair an LPG system may not be liable for damages caused by the modification of an LPG system by an unlicensed person except as otherwise provided by applicable law.

(b) The commission shall adopt rules relating to the notice required by Subsection (a).