ALTERNATIVE FUELS RESEARCH & EDUCATION DIVISION

LIQUEFIED PETROLEUM GAS SAFETY RULES

RAILROAD COMMISSION OF TEXAS

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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Revised September 29, 2003

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 statutes on this Web site are provided as a public service for informational purposes only. The official text of these statutes is on file at the Office of the Texas Secretary of State. These statues are current only through the 3rd Called Session of the 78th Legislature (2003).

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. Click on the black tab labeled "Rules," 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. Under "Agency Services," click on "Propane/LP-Gas Licensing & Certification," select "Forms," and choose the forms you want to view or print. If you are unable to view and print the forms online, please contact the LP-Gas Section at (512) 463-6931 and the requested forms will be faxed or mailed to you.

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LP GAS SAFETY RULES

Important Notice 3

Subchapter A – General Requirements

§9.1 Application of Rules, Severability, and Retroactivity 8
§9.2 Definitions 9
§9.3 LP-Gas Report Forms 13
§9.6 Licenses and Fees 15
§9.7 Application for License and License Renewal Requirements 17
§9.8 Application for a New Certificate 20
§9.9 Requirements for Certificate Renewal 20
§9.10 Rules Examination 21
§9.11 Previously Certified Individuals 23
§9.12 Trainees 23
§9.13 General Installers and Repairman Exemption 24
§9.16 Hearings for Denial, Suspension, or Revocation of Licenses or Certificates 25
§9.17 Designation and Responsibilities of Company Representatives and Operations Supervisors 26
§9.18 Reciprocal Examination Agreements with Other States 30
§9.21 Franchise Tax Certification and Assumed Name Certificates 31
§9.22 Changes in Ownership, Form of Dealership, or Name of Dealership 32
§9.23 Limitation/Avoidance of Licensee Liability 33
§9.26 Insurance and Self-Insurance Requirements 33
§9.27 Application for an Exception to a Safety Rule 38
§9.28 Reasonable Safety Provisions 40
§9.31 LP-Gas Regional Supply Emergency Response 40
§9.32 LP-Gas Advisory Committee 41
§9.33 LP-Gas Welding Advisory Committee 43
§9.36 Report of LP-Gas Incident/Accident 45
§9.37 Termination of LP-Gas Service 46
§9.38 Reporting Unsafe LP-Gas Activities 46
§9.41 Testing of LP-Gas Systems in School Facilities 47
§9.51 General Requirements for Training and Continuing Education 48
§9.52 Training and Continuing Education Courses 51
§9.53 Continuing Education Credit for Previous Courses 60
§9.54 Commission-Approved Outside Instructors 60

Subchapter B - Stationary Installations and Container Requirements

§9.101 Filings Required for Stationary LP-Gas Installations 65
§9.102 Notice of Stationary LP-Gas Installations 67
§9.103 Objections to Proposed Stationary LP-Gas Installations 68
§9.107 Hearings on Stationary LP-Gas Installations 68
§9.108 Interim Approval Order for Stationary LP-Gas Installations 69
§9.109 Physical Inspection of Stationary LP-Gas Installations 69
§9.110 Emergency Use of Proposed Stationary LP-Gas Installations 70

§9.113 Maintenance 70
§9.114 Odorizing and Reports 70
§9.115 Examination and Testing of Containers 71
§9.126 Appurtenances and Equipment 71
§9.129 Manufacturer's Nameplate and Markings on ASME Containers 72
§9.130 Commission Identification Nameplates 74
§9.131 200 PSIG Working Pressure Stationary Vessels 76
§9.132 Sales to Unlicensed Individuals 76
§9.134 Connecting Container to Piping 76
§9.135 Unsafe or Unapproved Containers, Cylinders, or Piping 76
§9.136 Filling of DOT Containers 76
§9.137 Inspection of Cylinders at Each Filling 77
§9.140 Uniform Protection Standards 77
§9.141 Uniform Safety Requirements 82
§9.142 LP-Gas Container Storage and Installation Requirements 83
§9.143 Bulkhead, Internal Valve, and ESV Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More 84

Subchapter C – Vehicles and Vehicle Dispensers

§9.201 Applicability 88
§9.202 Registration and Transfer of LP-Gas Transports or Container Delivery Units 89
§9.203 School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle Installations and Inspections 90
§9.206 Vehicle Identification Labels 91
§9.207 Requirements for Movable Fuel Storage Tenders, Such as Farm Carts 91
§9.208 Testing Requirements 91
§9.211 Markings 92
§9.212 Manifests 92

Subchapter D - Adoption By Reference of NFPA 54 (National Fuel Gas Code)

§9.301 Adoption by Reference of NFPA 54 93
§9.302 Clarification of Certain Terms Used in NFPA 54 94
§9.303 Exclusion of NFPA 54, §6.31 94
§9.306 Room Heaters in Public Buildings 94
§9.307 Identification of Converted Appliances 94
§9.308 Identification of Piping Installation 95
§9.311 Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support 95
§9.312 Certification Requirements for Joining Methods 96
§9.313 Sections In NFPA 54 Adopted with Corrections 97

Subchapter E - Adoption By Reference of NFPA 58 (LP-Gas Code)

§9.401 Adoption by Reference of NFPA 58 101
§9.402 Clarification of Certain Terms Used in NFPA 58 102
§9.403 Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes, Additional Requirements, or Corrections 102

§9.403 Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes, Additional Requirements, or Corrections (continued) 112

Subchapter F - Adoption By Reference of NFPA 51 (Standard For The Design and Installation of Oxygen-Fuel Gas Systems For Welding, Cutting, and Allied Processes)

§9.501 Adoption by Reference of NFPA 51 112
§9.502 Clarification and/or Exclusion of Definitions in NFPA 51 113
§9.503 Exclusion of Certain Sections and Chapters 6, 7, and 8 in NFPA 51 114
§9.506 Sections in NFPA 51 Adopted with Additional or Alternative Language 114
§9.507 Container Installation Requirements 118
§9.508 LP-Gas Pressure Going into a Building 119

Chapter 113 Texas Natural Resources Code (LP-Gas Code)

Subchapter A - General Provisions

§113.001. Title 119
§113.002. Definitions 119
§113.003. Exceptions 121

Subchapter B - Administrative Provisions

§113.011. Regulation Of Liquefied Petroleum Gas Activities 121
§113.014. Employees 121
§113.015. Funds for Financing Regulation Of LPG Activities 121

Subchapter C - Rules and Standards

§113.051. Adoption of Rules and Standards 122
§113.0511. Limitations on Rulemaking Authority 122
§113.052. Adoption of National Codes 122
§113.053. Effect on Certain Containers 122

Subchapter D - Licensing

§113.081. License Requirement 123
§113.082. Categories of LPG Activities; Fees 124
§113.083. Liquefied Petroleum Gas Emergency 125
§113.084. Application 126
§113.087. Course of Instruction, Examination, and Seminar Requirements 126
§113.088. Examination; Seminar Fees 128
§113.089. Special Requirements for Licensing 128
§113.090. Filing and Registration Fees 128
§113.091. License Denial 129
§113.092. License Issuance 129
§113.093. License Renewal 129
§113.094. Staggered Renewal of Licenses 130
§113.095. License and Examination by Endorsement 130
§113.096. Provisional License 130
§113.097. Insurance Requirement 131
§113.098. Insurance Conditions 132
§113.099. Statements in Lieu of Insurance Certificates 133

Subchapter E - Motor Vehicles and Testing Laboratories
§113.131. Transport Trucks and Trailers 134
§113.133. Motor Carrier Laws 134
§113.134. Department of Public Safety 134
Subchapter F - Disciplinary Action
§113.161. Violations of Chapter or Rules; Informal Actions 135
§113.162. Hearings 135
§113.163. Findings and Judgment 135
§113.164. Appeal 136
Subchapter G - Fees and Funds
§113.201. Deposit and Expenditure of Fees and Funds 136
Subchapter H - Enforcement
§113.231. Injunctions 136
§113.232. General Penalty 136
§113.233. Entry for Inspection and Investigation 137
§113.234. Warning Tag 137
§113.235. Supplying or Removing LPG After Warning Tag Attached 137
§113.236. Penalty for Unauthorized Removal of Tag 137
Subchapter I - Alternative Fuels Research and Education
§113.241. Rules Regarding Research and Education 138
§113.242. Advisory Committees 138
§113.243. Alternative Fuels Research and Education Fund 138
§113.2435. Consumer Incentive or Rebate Programs 140
§113.244. Fee on Delivery of LPG 141
§113.245. Report and Remission of Fees 142
§113.246. Rules Regarding Fees; Agreements With Other States 142
§113.247. Penalties Related to Report or Fees 143
§113.248. Civil Penalty 143
§113.249. Attorney General 143
§113.250. Criminal Penalty 143
Subchapter K - Liability of License Holder
§113.301. Limitation of Liability of Licensed Installer or Servicer 144
Subchapter L - Testing of LP-Gas Systems In School Facilities
§113.351. Definitions 144
§113.352. Duty to Test for Leakage 145
§113.353. Requirements of Test 145
§113.354. Notice of Test 145
§113.355. Termination of Service 145
§113.356. Report to Board of Trustees 146
§113.357. Enforcement 146

SUBCHAPTER A – GENERAL REQUIREMENTS

§9.1 Application of Rules, Severability, and Retroactivity

(a) The *LP-Gas Safety Rules* apply to the location 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, Stationary Installations and Container Requirements, applies to proposed and existing stationary LP-gas installations and containers, including cylinder exchange racks.

(3) Subchapter C, Vehicles and Vehicle Dispensers, 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.

(6) Subchapter F, Adoption by Reference of NFPA 51 (Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes), applies to the use of LP-gas as a welding fuel.

(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* are not retroactive.

(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*, including any adopted NFPA pamphlets. For the purpose of consistency, the figure of 4.20 lb is used to determine the weight of one gallon of LP-gas. The omission of a specific NFPA 58 pamphlet or any other NFPA rule containing any such applicable language from Table 1 of §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted With Changes, Additional Requirements, or Corrections) is inadvertent and shall not be read or understood as requiring or allowing any such size of LP-gas container to comply with the adopted LP-gas safety rule requirements.

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

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

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

(3) comply with the National Fire Protection Association (NFPA) Code 58, *Liquefied Petroleum Gas Code*.

(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 §8.2.3.1(k) in Table 1 in §9.403(a), relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes, Additional Requirements, or Corrections.

§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) 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.

(2) AFRED--The Commission's Alternative Fuels Research and Education Division.

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

(A) who is applying for a new certificate; or

(B) whose certification has lapsed for a period of less than two years and who is applying to restore certification by paying any applicable fees and by completing any applicable training or continuing education requirements.

(6) Assistant director--The assistant director of the LP-Gas Safety Section who is the Commission's delegate responsible for the enforcement of the LP-Gas Safety Rules and the Texas Natural Resources Code.

(7) 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.

(8) Categories of LPG activities--The LP-gas license categories as specified in §9.6 of this title (relating to Licenses and Fees).

(9) Certificate holder--An individual:

(A) who has passed the required management-level qualification examination, satisfactorily completed any applicable training or continuing education requirements, and paid the applicable fee; or

(B) who has passed the required employee-level qualification examination, paid the applicable fees, and complied with the training or continuing education requirements in §9.52 of this title (relating to Training and Continuing Education Courses); or

(C) who has passed the required management-level qualification examination or employee-level qualification examination, has paid the applicable fee, and is required to comply with a training or continuing education requirement.

(10) 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.

(11) CETP--The Propane Education and Research Council's Certified Employee Training Program.

(12) 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, retail LP-gas cylinder filling/exchange operation, service station, forklift refueling facility, private motor/mobile fuel cylinder filling operation, a microwave tower, or a public or private agricultural installation.

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

(14) 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.

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

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

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

(18) 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, or, for purposes of this chapter, an owner-employee.

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

(20) Licensed--Authorized 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.

(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) 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.

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

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

(28) 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.)

(29) Operations supervisor--The individual who is certified by the Commission to actively supervise a licensee's LP-gas operations.

(30) Outlet--A site operated by an LP-gas licensee at which the business conducted materially duplicates the operations for which the licensee is initially granted a license.

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

(32) Person--An individual, partnership, firm, corporation, joint ventureship, 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.

(33) 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.

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

(35) 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.

(36) Register (or registration)--The procedure to inform the Commission of the use of an LP-gas transport or container delivery unit in Texas.

(37) 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.

(38) 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 LP-Gas Safety Rules.

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

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

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

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

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

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

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

(46) Transfer--The procedure to inform the Commission of a change in operator of an LP-gas transport or container delivery unit already registered with the Commission.

(47) Transfer system--All piping, fittings, valves, and equipment utilized in dispensing LP-gas between containers.

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

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

(50) Ultimate consumer--The individual controlling LP-gas immediately prior to its ignition.

§9.3 LP-Gas Report Forms

Under the provision of the Texas Natural Resources Code, Chapter 113, the Railroad Commission of Texas has adopted the following forms for use by the LP-Gas Safety Section of the Gas Services Division.

(1) LPG Form 1.	Application for License.
(2) LPG Form lA.	Branch Outlet List.
(3) LPG Form 3.	Liquefied Petroleum Gas License.
(4) LPG Form 4.	Liquefied Petroleum Gas Vehicle Identification.
(5) LPG Form 5.	Manufacturer's Data Report.
(6) LPG Form 7.	Liquefied Petroleum Gas Truck Registration.
(7) LPG Form 8.	Manufacturer's Report of Pressure Vessel Repair, Modification, or Testing.
(8) LPG Form 8A.	Report of DOT Cylinder Repair.
(9) LPG Form 16.	Application for Examination.
(10) LPG Form 16A.	Certified Employee Transfer Certification.
(11) LPG Form 16B.	Application for Examination Exemption by a Master Journeyman Plumber or a Class A or B Air Conditioning and Refrigeration Contractor.
(12) LPG Form 16R.	Reciprocity Examination Exemption.
(13) LPG Form 17.	Report of Odorization of Liquefied Petroleum Gases.
(14) LPG Form 18.	Statement of Lost or Destroyed License.

(15) LPG Form 18B.	Statement of Lost or Destroyed LPG Form 4.
(16) LPG Form 19.	Inventory of LP-Gas Storage Facility.
(17) LPG Form 20.	Report of LP-Gas Incident/Accident.
(18) LPG Form 21.	Notice of Intent to Appear.
(19) LPG Form 22.	Report of LP-Gas Safety Rule Violations.
(20) LPG Form 23.	Statement in Lieu of Container Testing.
(21) LPG Form 25.	Application and Notice of Exception to the LP-Gas Safety Rules.
(22) LPG Form 26.	Franchise Tax Certification.
(23) LPG Form 28.	Notice of Election to Self-Insure Per Rule 9.26.
(24) LPG Form 28A.	Bank Declarations Regarding Irrevocable Letter of Credit.
(25) LPG Form 500.	Application for Installation.
(26) LPG Form 500A.	Notice of Proposed LP-Gas Installation.
(27) LPG Form 501.	Completion Report for Commercial Installations of Less than 10,000 Gallons Aggregate Water Capacity.
(28) LPG Form 502.	Request for Commission Identification Nameplate.
(29) LPG Form 503.	Request for Inspection of an LP-Gas System on School Bus, Public Transportation, Mass Transit, or Special Transit Vehicles.
(30) LPG Form 505.	Testing Procedures Certification for Category B and O Licenses.
(31) LPG Form 506.	Polyethylene Pipe/Tubing Heat-Fusion Certification.
(32) LPG Form 995.	Certification of Political Subdivision of Self-Insurance for General Liability, Workers' Compensation, and/or Motor Vehicle Liability Insurance.
(33) LPG Form 996A.	Certificate of Insurance, Workers' Compensation and Employer's Liability or Alternative Accident/Health Insurance.
(34) LPG Form 996B.	Statement in Lieu of Insurance Filing Certifying Workers' Compensation Coverage, including Employer's Liability Insurance or Alternative Accident/Health Insurance.

(35) LPG Form 997A.	Certificate of Insurance, Motor Vehicle Bodily Injury, and Property Damage Liability.
(36) LPG Form 997B.	Statement in Lieu of Motor Vehicle Bodily Injury, and Property Damage Liability Insurance.
(37) LPG 998A.	Certificate of Insurance, General Liability.
(38) LPG 998B.	Statement in Lieu of General Liability Insurance and/or Completed Operations or Products Liability Insurance.
(39) LPG Form 999.	Notice of Insurance Cancellation.

§9.6 Licenses and Fees

(a) A prospective licensee may apply to the Commission for one or more licenses specified in subsection (c)(1)-(16) of this section. Fees required to be paid shall be those established by the Commission and in effect at the time of licensing or renewal.

(b) 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 the licensing requirements of this title, but shall comply with all other LP-Gas Safety Rules.

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

(1) A Category A license for container manufacturers and/or fabricators authorizes the manufacture, fabrication, assembly, repair, installation, subframing, testing, and sale of LP-gas 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.

(2) 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.

(3) 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.

(4) A Category D license for general installers and repairmen authorizes the sale, service, and installation of containers, excluding motor fuel containers, and the service, installation, and repair of piping, certain appliances as defined by rule, excluding recreational vehicle appliances and LP-gas systems, and motor fuel and recreational vehicle systems. The service and repair of an LP-gas appliance not required by the manufacturer to be vented to the atmosphere is exempt from Category D licensing. The installation of these unvented appliances to LP-gas systems

by means of LP-gas appliance connectors is also exempt from Category D licensing. The original license fee is $100; the renewal fee is $70.

(5) 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 is $300.

(6) 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.

(7) 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 is $50.

(8) 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 is $300.

(9) A Category I license for service stations and cylinder filling authorizes any service station and cylinder activity set out in Category F and Category G of this section. The original license fee is $150; the renewal is $70.

(10) 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 is $300.

(11) 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 is $300.

(12) A Category L license for engine 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 is $50.

(13) 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 is $70.

(14) 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 is $70.

(15) 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 is $100.

(16) 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.

§9.7 Application for License and License Renewal Requirements

(a) No person shall perform work or be employed in any capacity requiring contact with LP-gas until that individual has taken and passed any applicable rules examination specified in §9.10 of this title (relating to Rules Examination) and in §9.17 of this title (relating to Designation and Responsibilities of Company Representatives and Operations Supervisors, and, except for a trainee described in §9.12 of this title (relating to Trainees), has successfully completed the training requirements beginning in §9.51 of this title (relating to General Requirements for Training and Continuing Education). Licensees, company representatives, and operations supervisors at each outlet shall have copies of all current licenses and examination identification cards for employees at that location available for inspection during regular business hours.

(b) Licensees shall maintain a current version of the LP-Gas Safety Rules and shall provide at least one copy to each company representative and operations supervisor. The copies shall be available to employees during business hours.

(c) Licenses 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.

(d) An applicant for a new license shall file with the Commission:

(1) a properly completed LPG Form 1 listing all names under which LP-gas related activities requiring licensing are to be conducted. Any company performing LP-gas activities under an assumed name ("DBA" or "doing business as" name) shall file 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 with the Commission; and

(2) LPG Form 16 or 16B and any of the following applicable forms:

(A) LPG Form 1A if the applicant will establish any outlets;

(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 owner or name;

(D) LPG Form 26 if the applicant for license is a corporation or limited liability company; and the applicant shall also comply with §9.21 of this title (relating to Franchise Tax Certification and Assumed Name Certificates);

(E) LPG Form 996A or 996B if the applicant is required to carry workers' compensation; and the applicant shall also comply with §9.26 of this title (relating to Insurance Requirements);

(F) LPG Form 997A or 997B if the applicant will operate a transport or container delivery unit; and the applicant shall also comply with §9.26; and/or

(G) LPG Form 998A or 998B if the applicant is required to carry general liability; and the applicant shall also comply with §9.26;

(3) pay the following fees:

(A) the applicable license fee specified in §9.6 of this title (relating to Licenses and Fees);

(B) transport registration fees specified in §9.202 of this title (relating to Registration and Transfer of LP-Gas Transports or Container Delivery Units), if the applicant for license intends to operate a transport or container delivery unit; and

(C) the management-level rules examination fee specified in §9.10 of this title (relating to Rules Examination); and

(D) the fee for any required training course as specified in §9.51 of this title (relating to General Requirements for Training and Continuing Education).

(e) An applicant for license shall not engage in LP-gas activities governed by the Texas Natural Resources Code, Chapter 113, and the LP-Gas Safety Rules, until it has employed a company representative and/or operations supervisor who has passed the management-level rules examination specified in §9.10 of this title (relating to Rules Examination) with a score of at least 75% and who has completed any required training in §9.51 and §9.52 of this title (relating to General Requirements for Training and Continuing Education; and Training and Continuing Education Courses), or who has obtained a General Installers and Repairman Exemption as specified in §9.13 of this title (relating to General Installers and Repairman Exemption). Company representatives and operations supervisors shall also comply with §9.17 of this title (relating to Designation and Responsibilities of Company Representatives and Operations Supervisors).

(f) For license renewals, the Commission shall notify the licensee in writing at the address on file with the Commission of the impending license expiration at least 30 calendar days before the date a person's license is scheduled to expire. The renewal notice shall include copies of LPG Forms 1, 1A, 7, and 26, whichever are applicable, showing the information currently on file. Renewals shall be submitted to the Commission with any necessary changes clearly marked on the forms, along with the license renewal fee specified in §9.6 of this title (relating to Licenses and Fees) and any applicable transport registration fee specified in §9.202 of this title (relating to Registration and Transfer of LP-Gas Transports or Container Delivery Units) on or before the last day of the month in which the license expires in order for the licensee to continue LP-gas activities. Failure to meet the renewal deadline set forth in this section shall result

in expiration of the license. If a person's license expires, that person shall immediately cease performance of any LP-gas activities authorized by the license. After verification, if the licensee has met all other requirements for licensing, the Commission shall renew the license, and the person may resume LP-gas activities.

(1) If a person's license 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 Licenses and Fees). Upon receipt of the renewal fee, the Commission shall verify that the person's license has not been suspended, revoked, or expired for more than one year. After verification, if the licensee has met all other requirements for licensing, the Commission shall renew the license, and the person may resume LP-gas activities.

(2) If a person's license 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 required by §9.6 of this title. Upon receipt of the renewal fee, the Commission shall verify that the person's license has not been suspended, revoked, or expired for more than one year. After verification, if the licensee has met all other requirements for licensing, the Commission shall renew the license, and the person may resume LP-gas related activities.

(3) If a person's license 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.

(4) 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 the Commission a fee that is equal to two times the renewal fee required by §9.6 of this title.

(A) 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;

(B) 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 (relating to Insurance Requirements) and the continuing education and training requirements as specified in §9.51 of this title (relating to General Requirements for Training and Continuing Education).

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

(1) An applicant for a Category A license or renewal shall file with the Commission for each of its outlets legible copies of:

(A) its current Department of Transportation (DOT) authorization. A licensee shall not continue to operate after the expiration date of the DOT authorization; and/or

(B) its current American Society of Mechanical Engineers (ASME) Code, Section VIII certificate of authorization.

(2) An applicant for a Category B or O license or renewal shall file with the Commission 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 the LPG Form 505.

(3) 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 the Commission 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 Application for a New Certificate

(a) An applicant for a new certificate shall:

(1) file with the Commission a properly completed LPG Form 16 and the applicable 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 AFT in §9.51 and §9.52 of this title (relating to General Requirements for Training and Continuing Education; and Training and Continuing Education Courses).

(b) 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) Active status. In order to maintain active status, certificate holders shall comply with the applicable continuing education requirements in this section.

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

(c) Certificate holders shall pay the $35 annual certificate renewal fee to the Commission on or before May 31 of each year. Individuals who hold more than one certificate shall pay only one annual renewal fee. An employee of a state agency, county, municipality, school district, or other governmental subdivision is not required to pay the annual certificate renewal fee.

(1) Failure to pay the annual renewal fee by the deadline shall result in a lapsed certification. To renew a lapsed certification, the individual shall pay the $35 annual renewal fee plus a $20 late-filing fee. Failure to do so shall

result in the expiration of the certificate. If an individual's certificate has been expired for more than two years from May 31 of the year in which certification lapsed, that individual shall comply with the requirements for a new certificate.

(2) Upon receipt of the annual renewal fee and any late-filing penalty, the Commission shall verify that the individual's certification has not been suspended, revoked, or expired for more than two years. After verification, the Commission shall renew the certification and the individual may continue or resume LP-gas activities authorized by that certification.

(d) Continuing education. Certificate holders shall successfully complete the continuing education requirements as specified in §§9.51 - 9.53 of this title (relating to General Requirements for Training and Continuing Education; Training and Continuing Education Courses; and Continuing Education Credit for Previous Courses).

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

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

§9.10 Rules Examination

(a) An individual who has filed LPG Form 16 and the applicable nonrefundable examination fee may take the rules examination at the Commission's Austin office between the hours of 8:00 a.m. and 2:00 p.m., Monday through Friday, except for state holidays, and at other designated times and locations around the state.

(1) Applicants who wish to take the rules examination at sites other than the Austin office shall submit LPG Form 16 and the applicable fee to the Commission's Austin office at least three business days prior to the examination date in order to receive an admittance letter from the Commission. The admittance letter shall be required at all exam sites other than the Austin office.

(2) The Category E and I management-level rules examination shall also be offered in conjunction with the Category E and I training courses.

(3) Exam fees.

(A) The management-level rules examination fee (for company representatives and operations supervisors) is $50.

(B) The employee-level rules examination fee (for employees other than company representatives or operations supervisors) is $20.

(C) The examination fee shall be paid each time an individual wishes to take the examination.

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

(b) Table 1 of this subsection specifies the examinations offered by the Commission.

Employee Level Examination Requirements for Licenses by Category

Table 1: 16 TAC §9.10(b)

License Categories	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Employee Level Exams Offered:																
1. Delivery Truck Exam (includes Transport Driver, DOT Cylinder Filling, and Motor/Mobile Fuel exams) (covers activities such as leak check, pressure test, lighting of appliances, and thermocouple changing)					*											
2. Transport Driver Exam			*		*											
3. Engine Fuel Exam					*							*				
4. DOT Portable Cylinder Filling Exam					*	*			*	*						
5. Recreational Vehicle Technician Exam					*								*			
6. Manufactured Housing Technician Exam				*	*									*		
7. Service and Installation Exam (covers activities for the entire LP-gas system)				*	*						*			*		
8. Appliance Service and Installation Exam (covers appliance activities from the appliance gas stop through the venting system)				*	*											
9. Motor/Mobile Fuel (Fuel Dispenser) Exam					*		*		*	*						

(c) Within 30 days of the date an individual takes an examination, the Commission shall notify the individual of the results of the examination.

(1) If the examination is graded or reviewed by a testing service, the Commission shall notify the individual of the examination results within 14 days of the date the Commission 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, the Commission shall notify the individual of the reason for the delay before the 90th day. The Commission may require a testing service to notify an individual of the individual's examination results.

(2) Successful completion of any required examination shall be credited to and accrue to the individual.

(d) 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. If requested in writing by an individual who failed the examination, the Commission shall furnish the individual with an analysis of the individual's performance on the examination.

(1) Any individual who fails an examination administered by the Commission only at the Austin location may retake the same examination only one additional time during a business day. Any subsequent examination shall be taken on another business day, unless approved by the assistant director.

(2) Any individual who fails an examination administered at a location other than the Austin location shall reapply to the Austin office for a new admittance letter.

§9.11 Previously Certified Individuals

(a) A licensee shall notify the Commission when a previously certified individual is hired by immediately filing LPG Form 16A and a $10 fee with the Commission, or in lieu of that form, the $10 fee and a written notice including the employee's name as recorded on a current driver's license or Texas Department of Public Safety identification card, employee social security number, names of the newly-hired certified employee's previous and new employers, and types of LP-gas work to be performed by the newly-hired certified employee.

(b) An ultimate consumer that operates an LP-gas transport shall also comply with this section.

§9.12 Trainees

(a) 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) subject to the following conditions.

(1) 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.

(2) The licensee or ultimate consumer shall ensure that LPG Form 16 and the applicable rules examination fee is on file with the Commission for each trainee at the time that the trainee begins supervised LP-gas activities. The trainee shall then have 45 calendar days to pass the applicable rules examination.

(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 Department of Licensing and Regulation may apply for and be granted an exemption to the Category D management-level rules examination and any service and installation employee-level rules examination for Categories D, E, K, or N only by submitting to the Commission the following:

(1) LPG Form 16B;

(2) a $30 original filing fee; and

(3) any information the Commission may reasonably require.

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

(c) An individual who holds a general installers and repairmen exemption shall not perform LP-gas related activities unless:

(1) that individual works for a properly licensed Category D, E, K, or N licensee;

(2) the individual successfully completes the applicable employee-level rules examination and training or continuing education required to work for a licensee in a category other than D, E, K, or N; or

(3) the individual successfully completes the rules examination and any training or continuing education requirements for a category of license other than Category D, E, K, or N.

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

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

(f) In order to maintain an exemption, each individual issued an examination exemption card shall pay a $20 annual renewal fee to the Commission 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 examination exemption. If an individual's examination exemption has been expired for more than two years, that individual shall complete all requirements necessary to apply for a new exemption.

(g) Each applicant for exemption who plans to substitute an individual as noted in §9.17 of this title (relating to Designation and Responsibilities of Company Representatives and Operations Supervisors) for its company representative or operations supervisor may do so provided that individual complies with all of the other requirements.

(h) Any individual who is issued this exemption agrees to comply with the current edition of the LP-Gas Safety Rules. In the event the exempt individual surrenders, fails to renew, or has the licensed revoked either by the Texas State Board of Plumbing Examiners or the Department of Licensing and Regulation, that individual shall immediately cease performing any LP-gas activities granted by this section. The examination exemption card shall be returned immediately to the Commission and all rights and privileges surrendered.

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

(a) The Commission may deny, suspend, or revoke a license or certificate for any individual who fails to comply with the LP-Gas Safety Rules.

(1) If the Commission determines that an applicant for license, certificate, or renewal has not met the requirements of the LP-Gas Safety Rules, the Commission shall notify the applicant in writing of the reasons for the proposed denial. In the case of an applicant for license 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 the Commission's 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 for license or license renewal within 30 calendar days of receipt of the denial with all deficiencies corrected, the Commission shall issue the license or license renewal.

(b) Hearing regarding denial of license or license renewal.

(1) An applicant receiving a notice of denial of a license or license renewal may request a hearing to determine whether the applicant did comply in all respects with the requirements for the category or categories of license 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 the Commission 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, the Commission shall schedule a hearing within 30 calendar days following the receipt of the request for hearing to determine the applicant's compliance or noncompliance with the licensing requirements for the category or categories of license sought.

(3) If, after hearing, the Commission finds the applicant's claim has been supported, it shall enter an order in its records to that effect, noting the category or categories of license for which the applicant is entitled to be licensed, and the license or renewal shall be issued.

(4) If, after hearing, the Commission finds that the applicant is not qualified for the license or license renewal in the category or categories of license sought, it shall likewise enter an order in its records to that effect, and no license or renewal shall be issued to the applicant.

(c) Suspension or revocation of licenses or certifications.

(1) If the Commission 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 LP-Gas Safety Rules, the Commission shall notify the licensee or certified person 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 or certified person receives the notice by which the violation or noncompliance shall be corrected or discontinued. If the Commission determines the violation or noncompliance may pose imminent peril to the health, safety, or welfare of the general public, the Commission may notify the licensee or certified person orally with instruction to immediately cease the violation or noncompliance. When oral notice is given, the Commission shall follow it with written notification no later than five business days after the oral notification.

(3) The licensee or certified person 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 the Commission within the same time frame specified in the notice for correction or discontinuance.

(d) Hearing regarding suspension or revocation of licenses and certifications.

(1) If a licensee or certified person disagrees with the determination of the Commission under this section, that person may request a public hearing on the matter to be conducted in compliance with the Texas Government Code, Chapter 2001, et seq., the general rules of practice and procedure of the Railroad Commission of Texas, and the LP-Gas Safety Rules. The request shall be in writing, shall refer to the specific rules or statutes the licensee or certified person claims to have complied with, and shall be received by the Commission within 30 calendar days of the licensee's or certified person's receipt of the notice of violation or noncompliance.

(2) If the Commission determines that the licensee or certified person may not comply within the specified time, the Commission may call a public hearing to be conducted in compliance with the Texas Government Code, Chapter 2001, et seq., the general rules of practice and procedure of the Railroad Commission of Texas, and any other applicable rules.

§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 the Commission designating the company representative for the license and/or LPG Form 1A designating the operations supervisor for each outlet.

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

(3) An individual shall be operations supervisor at only one outlet.

(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 the Commission in writing upon termination, for whatever reason, of its company representative or any operations supervisor and shall at the same time designate a replacement by submitting a new LPG Form 1 for a new company representative or a new LPG Form 1A for a new operations supervisor.

(A) A licensee shall cease all LP-gas activities if, at the termination of its company representative, there is no other qualified company representative of the licensee who has complied 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 an extension of time in which to comply as specified in subsection (f) of this section.

(B) A licensee shall cease LP-gas activities at an outlet if, at the termination of its operations supervisor for that outlet, there is no other qualified operations supervisor at that outlet who has complied 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 an extension of time in which to comply as specified in subsection (f) of this section.

(b) Company representative. A company representative shall comply with the following requirements:

(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, 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 insure compliance with the LP-Gas Safety Rules;

(4) pass the appropriate management-level rules examination and complete any required training specified in §9.52 of this title (relating to Training and Continuing Education Courses), or in the case of an applicant for a Category D license, obtain a General Installers and Repairman Exemption as specified in §9.13 of this title (relating to General Installers and Repairman Exemption);

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

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

(7) submit any additional information as deemed necessary by the Commission.

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

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

(2) pass the applicable management-level rules examination and complete any required training specified in §9.52 of this title (relating to Training and Continuing Education Courses) or, in the case of a Category D license only, obtain a General Installers and Repairman Exemption as specified in §9.13 of this title (relating to General Installers and Repairman Exemption), before commencing or continuing the licensee's LP-gas activities at the outlet; and

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

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

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

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

(B) 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;

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

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

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

(F) 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;

(G) 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;

(H) 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;

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

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

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

(L) all provisions of Subchapter H ("Enforcement") of Chapter 113 of the Texas Natural Resources Code;

(M) 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

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

(2) provide a copy of the manual for display at each outlet or location of the Category P licensee;

(3) 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; and

(4) complete all three requirements of this subsection, for existing Category P licensees, prior to October 25, 2001, and within 45 days of any Category P license obtained on or after September 1, 2001.

(e) The Category P licensee is responsible for the following:

(1) insuring 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

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

(f) Category P licensees. The company representative requirement for a Category P licensee may be satisfied by employing a Category E, J, or other licensee company representative if the Category E, J, or other company representative is authorized by the Category P licensee to assign and remove any employee who does not comply with the LP-Gas Safety Rules or who performs any unsafe LP-gas activities.

(g) Work experience substitution for Category E and I. The assistant director may, upon written request, allow a conditional qualification for a Category E or I 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 or I training course, or one agreed on by the assistant director and the applicant. The written request shall include a description of the individual's LP-gas experience and other related information in order that the assistant director may properly evaluate the request. If the individual fails to complete the training requirements within the time granted by the assistant director, the conditional qualification shall immediately be voided and the conditionally qualified company representative or operations supervisor shall immediately cease all LP-gas activities. 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 (relating to Training and Continuing Education Courses) prior to the Commission issuing a certificate.

§9.18 Reciprocal Examination Agreements with Other States

(a) The Commission 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 the Commission. The Commission 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 assistant director or the assistant director's delegate.

(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) The Commission 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 pay to the Commission the nonrefundable employee-level rules examination fee and 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 the Commission 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; and

(2) LPG Form 16R. Applicants from other states shall provide their Social Security numbers to the Commission 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.

(3) Texas applicants shall provide copies of their Commission-issued wallet certification cards showing their annual certification as their written proof when applying to other states for reciprocal examination exemptions.

(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 LP-Gas Safety Rules.

(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 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, the Commission may issue reciprocal examination exemptions only for LP-gas transport driver examinations. For purposes of reciprocal agreements, a "transport" is defined as a semitrailer.

§9.21 Franchise Tax Certification and Assumed Name Certificates

(a) An applicant for an original or renewal license that is a corporation or limited liability company shall file LPG Form 26 with the Commission prior to the issuance of such license, certifying that its Texas franchise taxes are current or such taxes are not applicable to the company. An applicant may file a Certificate of Account Status issued by the Office of the Comptroller of Public Accounts with the Commission as an alternative to filing the LPG Form 26.

(b) All applicants for license shall list on LPG Form 1 all names under which LP-gas related activities requiring licensing are to be conducted. Any company performing LP-gas activities under an assumed name ("DBA" or "doing business as" name) shall file 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 with the Commission.

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

(a) Changes in ownership which require a new license.

(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 authorizing the LP-gas activities to be performed at the dealership or outlet or shall apply for and be issued an LP-gas license prior to engaging in any LP-gas activities which require a license.

The purchaser, lessee, or donee shall notify the Commission by filing a properly completed LPG Form 1 prior to engaging in any LP-gas activities at that dealership or outlet which require an LP-gas license.

(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 the Commission in writing and shall immediately cease all LP-gas activities of the previously existing dealership which require an LP-gas license and shall not resume until the Commission issues an LP-gas license 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 authorizing the LP-gas activities to be performed or shall apply for and be issued a license before engaging in any LP-gas activities which require an LP-gas license and shall immediately notify the Commission in writing of the change in business entity.

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

(1) an amended LPG Form 1 and, if applicable, Form 1A;

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

(3) certificates of insurance or affidavits in lieu of insurance (where permitted by §9.26 of this title (relating to Insurance Requirements) or both;

(4) an amended LPG Form 7 to transfer any LP-gas transport or container delivery unit, including any fees specified in §9.202 of this title (relating to Registration or Transfer of LP-Gas Transports or Container Delivery Units); and

(5) an amended LPG Form 19, if applicable, to specify storage container inventory.

(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 Commission 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 agree to comply with all 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) LP-gas licensees or applicants for license shall comply with the minimum amounts of insurance specified in Table 1 of this section or with the self-insurance requirements in subsection (j) of this section. Before the Commission grants or renews a license, an applicant shall submit either:

Table 1: 16 TAC §9.26(a)

CATEGORY OF LICENSE	TYPE OF COVERAGE	INSURANCE POLICY ENDORSEMENT REQUIRED	FORM REQUIRED	STATEMENT IN LIEU OF REQUIRED INSURANCE FILING
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	WC42 06 01, Texas Notice of Material Change	LPG Form 996A	LPG Form 996B
A, B, C, E, O, H, J	General liability coverage including: premises and operations in an amount of at least $300,000 per occurrence and $300,000 aggregate	CG 02 05, Texas Changes Amendment, Cancellation Provisions, or Coverage Change Endorsement	LPG Form 998A	LPG Form 998B
A, B, C, E, O	Completed operations or products liability insurance, or both, in an amount of at least $300,000 aggregate	CG 02 05, Texas Changes Amendments or Coverage Change Endorsement	LPG Form 998A	LPG Form 998B
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	CG 02 05, Texas Changes Amendments or Coverage Change Endorsement	LPG Form 998A	LPG Form 998B
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	TE2326A, Liquefied Petroleum Gas Licensed Motor Vehicle Endorsement Texas Railroad Commission Form Endorsement	LPG Form 997A	LPG Form 997B

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(1) a valid certificate of insurance, which shall remain in effect during the entire period that the license is in effect; or

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

(b) Certificates of insurance filed with the Commission shall have one of the endorsements specified in Table 1 of this section attached to the policy, and the endorsements shall not be canceled without cancellation of the policy to which they are attached.

(c) Each endorsement issued and attached to a certificate of insurance requires the insurance carrier, noted as "company" on the certificate of insurance, to give the Commission written notice 30 calendar days before the insurance cancellation. The 30-day notice commences to run from the date the notice is actually received by the Commission.

(d) A licensee or applicant for a license that does not employ or contemplate employing any employee in LP-gas activities may file LPG Form 996B in lieu of a certificate of workers' compensation, including employer's liability insurance, or alternative accident and health insurance coverage. The licensee or applicant for license shall file the required insurance certificate with the Commission before hiring any person as a dealership employee.

(e) 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 certificate of motor vehicle bodily injury and property damage insurance, if this certificate is not otherwise required. The licensee or applicant for a license shall file the required insurance certificate with the Commission before operating a motor vehicle equipped with an LP-gas cargo container or transporting LP-gas by vehicle in any manner.

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

(g) A licensee or applicant for a license 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 a certificate of general liability insurance. The licensee or applicant for a license shall file the required insurance certificate with the Commission before engaging in any operations that require general liability insurance.

(h) 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.

(i) 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 by filing LPG Form 995 with the Commission as evidence of self-insurance, if permitted by the Texas Labor Code, Title 5, Subtitle C, and Texas Natural Resources Code, §113.097.

(j) 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 the Commission a properly completed LPG Form 28, Notice of Election to Self-Insure Per Rule 9.26 (created 11/02) and a properly completed LPG Form 28-A, Bank Declarations Regarding Irrevocable Letter of Credit (created 11/02). The licensee or license applicant shall attach to the LPG Form 28-A 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) 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 the Railroad Commission, Gas Services Division, LP-Gas Section, 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.

§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 the Commission.

(b) The application shall contain the following:

(1) the section number of any applicable rules;

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

(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;

(6) an original signature in ink by the party filing the application or by the authorized representative;

(7) 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 the Commission. The applicant shall include a notice to the affected entities that any objection shall be filed with the Commission within 18 calendar days of postmark or other delivery of the application. The applicant shall file all return receipts with the Commission 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 nonstationary site, 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) The Commission 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 the Commission 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 of public health, safety, or welfare. The Commission may decline to consider objections based solely on claims of diminished property or esthetic values in the area.

(e) The Commission shall review the application within 21 business days of receipt of the application. If the Commission does not receive any objections from any affected entities as defined in subsection (c) of this section, the director of the Gas Services Division or the director's delegate 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. The Commission 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. The Commission 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. If the director of the Gas Services Division or the director's delegate denies the exception, the Commission shall notify the applicant in writing, outlining the reasons and any specific deficiencies. 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. 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.

(f) A hearing shall be held when the Commission receives an objection as set out in subsection (d) from any affected entity, or when the applicant requests one following an administrative denial. The Commission shall mail the notice of hearing to the applicant and all objecting entities by certified mail, return receipt requested, at least 21 calendar days prior to the date of the hearing. Hearings will be held in accordance with the Texas Government Code, Chapter 2001, et seq., the general rules of practice and procedure of the Railroad Commission of Texas, and the LP-Gas Safety Rules.

(g) 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.

(h) 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.

(i) 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 the Commission of an incomplete request. The applicant may resubmit an application request.

§9.28 Reasonable Safety Provisions

If an LP-gas stationary installation, equipment, or appurtenances not specifically covered by the LP-Gas Safety Rules has been or will be installed, the Commission shall apply and require any reasonable safety provisions to ensure the LP-gas installation is safe for LP-gas service. If the affected entity disagrees with the Commission's determination, the entity may request a hearing. The installation shall not be placed into LP-gas operation 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 LP-Gas Advisory Committee

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

(1) Committee--The LP-Gas Advisory Committee of the Railroad Commission of Texas.

(2) Consumer representative--A member of the committee who is not engaged in the business of producing, distributing or retailing LP-gas and who is not engaged in the business of designing, manufacturing, distributing or retailing LP-gas equipment or performing LP-gas-related research or other services, but who is either an end user of LP-gas fuel, including but not limited to a consumer of odorized LP-gas as a residential or commercial heating or water-heating fuel, as an automotive or other transportation fuel, or as an agricultural or industrial fuel, or a representative from a governmental agency with a direct interest in LP-gas usage and safety.

(3) Fiscal year--September 1 of a year through August 31 of the following year.

(4) Industry representative--A member of the committee who is engaged in the business of producing, distributing or retailing LP-gas or who is engaged in the business of designing, manufacturing, distributing or retailing LP-gas equipment.

(5) Local government representative--A member of the committee who is a fire marshal for a city or county.

(6) Member--An industry representative, a consumer representative, or a representative of local government who serves on the LP-Gas Advisory Committee of the Railroad Commission of Texas.

(7) Presiding officer--The chairman of the LP-Gas Advisory Committee of the Railroad Commission of Texas.

(b) Establishment; Duration. The LP-Gas Advisory Committee of the Railroad Commission of Texas is hereby established effective January 1, 1995. The committee is abolished on August 31, 2006, unless the Commission amends this subsection to establish a different date.

(c) Purpose and Duties. The purpose of the committee is to give the Commission the benefit of the members' collective

business, environmental, and technical expertise and experience to help the Commission regulate the safe use of LP-gas. The committee's sole duty is to advise the Commission. The committee has no executive or administrative powers or duties with respect to the operation of the division. All such powers and duties rest solely with the Commission.

(d) Composition of Committee; Membership Terms. The committee shall be composed of 12 members, 11 of whom shall be voting members. The 11 voting members shall include five LP-gas consumers, five members of the LP-gas industry, and one representative from local government, all of whom serve at the pleasure of the Commission, for a period of two years. The Gas Services division director's delegate shall serve as an ex officio, non-voting member of the committee.

(e) Nominations for Committee Membership. Any person may nominate a candidate or candidates for membership on the committee. Nominations shall be made in writing and submitted by November 15, 1994, for the initial committee, and by January 1 of each odd-numbered year thereafter. Nominations may be submitted to the Commission, a commissioner, or the director of the Gas Services Division for transmission to the Commission.

(f) Appointment of Members. All members of the committee are appointed by and serve at the pleasure of the Commission. The Commission shall appoint members of the first committee by January 1, 1995, and by August 31 of each odd-numbered year thereafter, such that the composition of the committee meets the requirements of subsection (d) of this section. If a member resigns or otherwise vacates his or her position prior to the end of his or her term, the Commission shall appoint a replacement who shall serve the remainder of the unexpired term.

(g) Reimbursement of Members' Expenses. The Commission shall not reimburse members for travel or other expenses related to service on the committee.

(h) Presiding Officer; Other Officers. The committee shall elect from its members a presiding officer who shall report the committee's advice and attendance in writing to the Commission. The committee may elect other officers at its pleasure.

(i) Subcommittees. The committee may organize itself into subcommittees. One member of each subcommittee shall serve as the chair of that subcommittee. The subcommittee chairs shall make written reports regarding their subcommittee's work to the presiding officer.

(j) Meetings. The committee shall meet at the call of the presiding officer or the Commission. Committee and subcommittee meetings are open to the public.

(k) Committee Records. Commission staff shall record and maintain the originals of the minutes of each committee and subcommittee meeting. The Commission shall maintain a record of actions taken by the committee and shall distribute copies of approved minutes and other committee documents to the Commission and the committee members.

(l) Evaluation of Committee Costs and Benefits. By October 1 of each year, the Gas Services Division director shall evaluate for the previous fiscal year and report to the Commission:

(1) the committee's work;

(2) the committee's usefulness; and

(3) the costs related to the committee's existence, including the cost of Commission staff time spent in support of the committee's activities.

(m) Report to Legislative Budget Board. The Commission shall biennially report to the Legislative Budget Board the information developed under subsection (l) of this section in evaluating the committee's costs and benefits.

§9.33 LP-Gas Welding Advisory Committee

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

(1) Committee--The LP-Gas Welding Advisory Committee of the Railroad Commission of Texas.

(2) Consumer representative--A member of the committee who is not engaged in the business of producing, distributing or retailing LP-gas and who is not engaged in the business of designing, manufacturing, distributing or retailing LP-gas equipment or performing LP-gas-related research or other services, but who is a user of LP-gas in a welding application.

(3) Fiscal year--September 1 of a year through August 31 of the following year.

(4) Industry representative--A member of the committee who is engaged in the business of producing, distributing or retailing LP-gas or who is engaged in the business of designing, manufacturing, distributing or retailing LP-gas equipment and who sells LP-gas for welding applications.

(5) Local government representative--A member of the committee who is a fire chief, fire marshal, or other similar position for a city or county.

(6) Member--An industry representative, a consumer representative, or a representative of local government who serves on the LP-Gas Welding Advisory Committee of the Railroad Commission of Texas.

(7) Presiding officer--The chairman of the LP-Gas Welding Advisory Committee of the Railroad Commission of Texas.

(b) Establishment; Duration. The LP-Gas Welding Advisory Committee of the Railroad Commission of Texas is hereby established effective October 1, 1996. The committee is abolished on August 31, 2006, unless the Commission amends this subsection to establish a different date.

(c) Purpose and Duties. The purpose of the committee is to give the Commission the benefit of the members' collective business, environmental, and technical expertise and experience to help the Commission regulate the safe use of LP-gas in welding applications. The committee's sole duty is to advise the Commission. The committee has no executive or administrative powers or duties with respect to the operation of the Commission. All such powers and duties rest solely with the Commission.

(d) Composition of Committee; Membership Terms. The committee shall be composed of six members, five of whom shall be voting members. The five voting members shall include two LP-gas consumers, two members of the LP-gas

welding industry, and one representative from local government, all of whom serve at the pleasure of the Commission, for a period of two years. The Gas Services division director's delegate shall serve as an ex officio, non-voting member of the committee.

(e) Nominations for Committee Membership. Any person may nominate a candidate or candidates for membership on the committee. Nominations shall be made in writing and submitted by January 1 of each odd-numbered year. Nominations may be submitted to the Commission, a commissioner, or the Gas Services Division director for transmission to the Commission.

(f) Appointment of Members. All members of the committee are appointed by and serve at the pleasure of the Commission. The Commission shall appoint members of the first committee by August 31 of each odd-numbered year thereafter, such that the composition of the committee meets the requirements of subsection (d) of this section. If a member resigns or otherwise vacates his or her position prior to the end of his or her term, the Commission shall appoint a replacement who shall serve the remainder of the unexpired term.

(g) Reimbursement of Members' Expenses. The Commission shall not reimburse members for travel or other expenses related to service on the committee.

(h) Presiding Officer; Other Officers. The committee shall elect from its members a presiding officer who shall report the committee's advice and attendance in writing to the Commission. The committee may elect other officers at its pleasure.

(i) Subcommittees. The committee may organize itself into subcommittees. One member of each subcommittee shall serve as the chair of that subcommittee. The subcommittee chairs shall make written reports regarding their subcommittee's work to the presiding officer.

(j) Meetings. The committee shall meet at the call of the presiding officer or the Commission. Committee and subcommittee meetings are open to the public.

(k) Committee Records. Commission staff shall record and maintain the originals of the minutes of each committee and subcommittee meeting. The Commission shall maintain a record of actions taken by the committee and shall distribute copies of approved minutes and other committee documents to the Commission and the committee members.

(l) Evaluation of Committee Costs and Benefits. By October 1 of each year, the Gas Services Division director shall evaluate for the previous fiscal year and report to the Commission:

(1) the committee's work;

(2) the committee's usefulness; and

(3) the costs related to the committee's existence, including the cost of Commission staff time spent in support of the committee's activities.

(m) Report to Legislative Budget Board. The Commission shall biennially report to the Legislative Budget Board the information developed under subsection (l) of this section in evaluating the committee's costs and benefits.

§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 the equipment of an installation shall notify the Commission by telephone of any event involving LP-gas which:

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

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

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

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

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

(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.

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

(1) name of reporting operator;

(2) location of leak or incident;

(3) 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 the Commission. The report shall be postmarked within 14 calendar days of the date of initial notification to the Commission, or within five business days of receipt of the fire department's report, whichever occurs first, unless the Commission grants authorization for a longer period of time when additional investigation or information is necessary.

(d) Within five business days of receipt, the Commission 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, J, or other licensee who supplies cylinders to the Category P licensee and the Category E, J, or other licensee shall be responsible for making the accident or incident report to the Commission as specified in this section.

§9.37 Termination of LP-Gas Service

(a) If the Commission determines that any LP-gas container or installation constitutes an immediate danger to the public health, safety, and welfare, the Commission 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 the Commission until the unsafe condition is remedied. Once corrected, the tag shall be removed by the Commission.

(b) If the Commission determines that any LP-gas container or installation does not comply with the Texas Natural Resources Code, Chapter 113, or the LP-Gas Safety Rules, but does not constitute an immediate danger to the public health, safety, and welfare, the Commission shall take action to ensure that the container or installation comes into compliance as soon as practicable. Commission action may include the placement of a warning tag. Once the container or installation complies with Texas Natural Resources Code, Chapter 113, and the LP-Gas Safety Rules, the Commission 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 the Commission's decision within 10 calendar days. The Commission 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 the Commission 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 the Commission by mail, telephone, electronic mail, or facsimile transmission (fax). When possible, the person shall make the report using LPG Form 22. If a person makes a report of unsafe or noncompliant LP-gas activities to the Commission without using LPG Form 22, the Commission shall complete the LPG Form 22. Within five business days of receipt of such report, the Commission shall notify the licensee and any other applicable persons in writing regarding the report and specify the reported violations, if any.

(b) If the submitting person does not specifically request anonymity, the Commission may release the person's name in accordance with any 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) Board of trustees--The governing entity of a school district.

(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) 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. Each school district shall ensure that a pressure test for leakage is performed on the LP-gas piping system in each school district facility as specified in this section.

(1) A test performed under a municipal code shall satisfy the pressure testing requirements of this section.

(2) Unless performed pursuant to paragraph (1) of this subsection, the pressure test shall be conducted in accordance with the National Fire Protection Association's Pamphlet 54, National Fuel Gas Code, commonly referred to as NFPA 54, as adopted by the Commission in this chapter, and shall be performed to determine whether the LP-gas piping system holds at least the amount of pressure specified by NFPA 54.

(3) If a leak is found, the school district shall immediately:

(A) remove the LP-gas system from LP-gas service until repairs are made and another test is done and passed; and

(B) report an identified LP-gas leakage in a school district facility to the board of trustees of the district in which the facility is located.

(4) A school district shall provide written notice to the Commission specifying the date and the result of each pressure test or other inspection of the LP-gas piping system within one week of the date each test is performed.

(5) Before the introduction of any LP-gas into an LP-gas piping system, each school district shall provide verification to the district's supplier that the LP-gas piping has been tested in accordance with this section.

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

(1) the supplier receives official notification from the firm or individual conducting the test or from the school district that there is hazardous leakage in the facility's LP-gas piping system;

(2) the test performed at the facility was not performed in accordance with the requirements of this section; or

(3) the supplier has not received verification from the school district that the LP-gas piping has been tested in accordance with this section.

(d) Commission requirements.

(1) The Commission shall maintain a copy of each school district's written notice under subsection (b)(4) of this section for at least one year from the date the Commission receives the notice.

(2) 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.

(3) The Commission shall enforce the provisions of this rule pursuant to Texas Natural Resources Code, Chapter 113.

(e) Compliance deadlines.

(1) Each school district shall perform leakage tests as required by this section at least once every two years beginning with the 2002-2003 school year.

(2) School districts shall complete the initial leakage tests before the beginning of the 2002-2003 school year. In the case of a year-round school, a school district shall ensure that the pressure test in each of those facilities is conducted and reported not later than July 1 of the year in which the test is performed, with the first test due by July 1, 2002.

(3) A school district may perform the pressure 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.

§9.51 General Requirements for Training and Continuing Education

(a) Effective March 1, 2001, individuals shall comply with the training and continuing education requirements in this chapter.

(b) Applicants for new licenses or new certificates, as set forth in §9.7 and §9.8 of this title (relating to Application for License and License Renewal Requirements, and Application for a New Certificate, respectively) and persons holding existing licenses or 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 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 the LP-Gas Safety Section.

(1) The training requirements apply only to applicants for Category D, E, F, G, I, J, or K management-level certificates and certain employee-level certificates.

(2) The continuing education requirements apply to:

(A) all management-level certificate holders and employee-level certificate holders as specified in the tables in §9.52 of this title (relating to Training and Continuing Education Courses); and

(B) 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.

(3) The training and continuing education requirements do not apply to:

(A) an ultimate consumer driving or fueling a motor vehicle powered by LP-gas;

(B) an individual who fuels motor vehicles as an employee of an ultimate consumer;

(C) an employee of a state agency, county, municipality, school district, or other governmental subdivision;

(D) an individual with a general installers and repairman exemption; or

(E) anyone certified only as a transport driver.

(4) Any employee of an ultimate consumer or a state agency, county, municipality, school district, or other governmental subdivision who is not required to complete the training or continuing education shall be properly supervised and trained by the employer in the maintenance and storage of LP-gas and vehicles fueled by LP-gas, and in the operation of equipment during the filling and dispensing of LP-gas.

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

(d) No partial credit. Individuals attending classes shall receive credit only if they attend the entire class, properly complete any AFT, and pay any training or continuing education course fees in full. The Commission shall not award partial credit for partial attendance.

(e) Schedules. Dates and locations of available Commission LP-gas training and continuing education classes can be obtained in the Austin offices of the Gas Services Division and AFRED, and on the Commission's web site at www.rrc.state.tx.us and shall be updated monthly. Commission classes shall be conducted in Austin and in other locations around the state. Individuals or companies may request in writing that Commission classes be taught in their area. The Commission shall schedule its classes and locations at its discretion.

(f) Registering for a class.

(1) To register for a scheduled training or continuing education class, an individual shall complete the registration form provided by AFRED and file the form with the AFRED training section prior to the class. AFRED shall also accept class 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 class.

(2) Costs for classes.

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

(i) $75 for an initial eight-hour class;

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

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

(B) The Category E, F, G, and I class fees do not include the management-level rules examination or license fee described in §9.6 and §9.10 of this title (relating to Licenses 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, or I shall not be required to pay the $75 class fee.

(D) Continuing education classes 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 (relating to Requirements for Certificate Renewal).

(E) Requests for classes where no training or continuing education class credit is given shall be submitted in writing to the AFRED training section. The AFRED training section may conduct the requested classes at its discretion. The fee for a non-credit class is $250 if no overnight expenses are incurred by the AFRED training section, or $500 if overnight expenses are incurred. A political subdivision is not required to pay the non-credit class fee.

(F) The Commission may charge reasonable fees for materials for classes using third-party materials.

(3) The Commission shall schedule individuals to attend classes on a first-come, first-served basis, except as follows:

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

(B) Priority for attending classes other than the 16-hour Category F, G, and I class, and the 80-hour Category E class 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 class has fewer than eight individuals registered within seven calendar days prior to the class, the Commission may cancel the class and shall either refund any class registration fees or shall reschedule the registered individuals in another class agreed upon by the individuals and the AFRED training section. The AFRED training section reserves the right to determine class sizes for all classes.

(4) If a previously registered individual is unable to attend the class 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 class in his or her place.

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

(g) Retention of records. Individual applicants or certificate holders shall be responsible for promptly notifying the AFRED training section in writing of any discrepancies or errors in the training or continuing education records, and shall notify the LP-Gas Safety Section of any discrepancies or errors in examination records or certification cards. In the event of a discrepancy, the Commission's 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. Applicants for a new certification listed in this subsection, other than Category E, F, G, or I management-level individuals and except as stated in paragraph (4) of this subsection, shall attend at least eight hours of training prior to their first certificate renewal deadline of May 31 of the appropriate year. Applicants for Category D, E, F, G, I, J, or K management-level certification shall attend the course or courses specified for the category. Category E applicants shall attend the 80-hour class; Category F, G, and I applicants shall attend the 16-hour class; and all other applicants shall attend an eight-hour class.

(1) The following management- or employee-level applicants shall complete the training requirements:

(A) Category D management-level;

(B) Category E management-level;

(C) Category F management-level;

(D) Category G management-level;

(E) Category I management-level;

(F) Category J management-level;

(G) Category K management-level;

(H) Delivery truck employee-level;

(I) DOT portable cylinder filler employee-level;

(J) Service and Installation employee-level;

(K) Appliance service and installation employee-level; and

(L) Motor/mobile fuel dispensing employee-level.

(2) Training requirements for an applicant for license shall be fulfilled by all prospective company representatives and operations supervisors.

(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 (f) of this section.

(4) Applicants for company representative or operations supervisor who do not comply with the conditional qualification in §9.17(g) of this title (relating to Designation and Responsibilities of Company Representatives and Operations Supervisors) 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. 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 class was completed on May 31, in which case the deadline shall be four years from that date. 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 extended only after a certificate holder successfully completes an applicable continuing education class. An individual who completes a continuing education class after the assigned deadline shall have four years from the original deadline to complete the next class.

(1) Individuals completing their continuing education requirements shall then have four years to complete the next eight-hour continuing education requirement (unless a new certification is added that requires training as specified in subparagraph (B) of this paragraph).

(A) Certificate holders with one of the following certificates shall complete the continuing education classroom instruction and any required AFT for that class:

(i) Category D management-level;

(ii) Category E management-level;

(iii) Category F management-level;

(iv) Category G management-level;

(v) Category I management-level;

(vi) Category J management-level;

(vii) Category K management-level;

(viii) Delivery truck employee-level;

(ix) DOT portable cylinder filler employee-level;

(x) Service and Installation employee-level;

(xi) Appliance service and installation employee-level; and

(xii) Motor/mobile fuel dispensing employee-level.

(B) Certificate holders who hold only a Category D, F, G, J, or K certificate as of the effective date of this section shall complete their initial continuing education requirement by May 31, 2005. Certificate holders who hold a Category D, F, G, J, or K certificate and who have more than one certification as of the effective date of this section shall complete their continuing education requirement by the continuing education deadline assigned for the initial certificate.

(C) Certificate holders who are certified to perform LP-gas activities covered by different certifications shall complete the 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 class relevant to one of the other certifications held.

(2) Certificate holders who attend a class 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.

(3) Individuals who have not paid the annual certificate renewal fee, including general installers and repairman exemption holders or members of the general public, shall not attend training or continuing education classes free of charge, but may request from the AFRED training section to attend classes at the charge specified in §9.51 of this title (relating to General Requirements for Training and Continuing Education). Such requests shall be in writing and handled at AFRED's discretion on an individual basis and if space is available in the requested class. Any employee of a state agency, county, municipality, school district, or other governmental subdivision is not required to pay the fee.

(4) Any certificate holder who has timely paid the annual certificate renewal fee but is not otherwise required to attend a Commission continuing education class may voluntarily attend a class, if space is available, by registering with the AFRED training section as specified in §9.51 of this title (relating to General Requirements for Training and Continuing Education).

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

(d) Class materials. Individuals who attend Commission-taught classes shall receive a copy of the class materials at no charge. Additional copies may be purchased from the Commission at the established price.

(e) Certificates of completion. The AFRED training section shall issue a certificate of completion to each individual who completes a Commission-taught class. Individuals shall retain the certificates as proof of completion of the class.

(f) Advanced field training (AFT). Some classes may include AFT in addition to the classroom hours, during which class attendees shall perform LP-gas activities. AFT shall be properly completed within 30 calendar days of attending the class. 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 class that required the AFT was attended.

(E) 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 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 approved Commission outside instructor to complete the AFT and maintain the LP-gas certification.

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

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

(g) Available courses. Training and continuing education courses and other information 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.

Figure: 16 TAC §9.52(g) -- Table One

LP-GAS MANAGEMENT-LEVEL TRAINING AND CONTINUING EDUCATION COURSES (September 2003)

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.
1.1	8		Introduction to Propane	x	x	x	x	x	x	x
2.1	8	x	Operating a Dispenser		x	x	x	x	x	
2.2/2.4	8	x	Inspecting, Requalifying, Filling and Transporting DOT Cylinders; and Evacuating, Transporting, Maintaining, and Refitting ASME Tanks		x	x	x	x	x	
2.3	8	x	Driving/Operating a Cargo Tank Motor Vehicle		x					
3.1	8		Residential Propane System Layout and Design	x	x					x
3.2	8		Residential Propane System Installation	x	x					
3.5	8		Identifying the Functions and Operation Characteristics of Controls	x	x					
3.7	8		Electrical Troubleshooting and Repairing Residential Gas Appliances	x	x					
3.11	8		Residential Propane System Inspection	x	x					
6.1	8		Regulatory Compliance		x					
80	80		Category E Management-Level Course	x	x	x	x	x	x	x
16	16		Category F, G, and I Management-Level Course		x	x	x	x	x	

Figure: 16 TAC §9.52(g) -- Table Two

LP-GAS EMPLOYEE-LEVEL TRAINING AND CONTINUING EDUCATION COURSES (September 2003)

Course Number	Course Hours	AFT	Course Title	Portable Cylinder Filling	Motor & Mobile Fuel	Bobtail[1]	Delivery Truck/ Service & Installation[2]	Service & Installation	Appliance Service & Installation
1.1	8		Introduction to Propane	x	x	x	x	x	x
2.1	8	x	Operating a Dispenser	x	x	x	x		
2.2/2.4	8	x	Inspecting, Requalifying, Filling and Transporting DOT Cylinders; and Evacuating, Transporting, Maintaining, and Refitting ASME Tanks	x		x	x		
2.3	8	x	Driving/Operating a Cargo Tank Motor Vehicle	x		x	x		
3.1	8		Residential Propane System Layout and Design				x	x	x
3.2	8		Residential Propane System Installation				x	x	
3.5	8		Identifying the Functions and Operation Characteristics of Controls				x	x	x
3.7	8		Electrical Troubleshooting and Repairing Residential Gas Appliances				x	x	x
3.11	8		Residential Propane System Inspection				x	x	x
6.1	8		Regulatory Compliance	x	x	x	x	x	x
80	80		Category E Management-Level Course	x	x	x	x		
16	16		Category F, G, and I Management-Level Course		x	x	x	x	x

[1] A "Bobtail Driver" notation on a Railroad Commission LP-gas certification card indicates the individual is authorized only to operate a bobtail truck and perform minor service activities.

[2] A "Delivery Truck" notation on an LP-gas certification card indicates the individual is authorized to perform delivery truck and service and installation activities.

Figure: 16 TAC §9.52(g) -- Table Three

COURSES WHICH COUNT TOWARDS CONTINUING EDUCATION CREDIT FOR MANAGEMENT-LEVEL CERTIFICATE HOLDERS

(September 2003)

Course Number	Course Hours[1]	AFT	Course Title	Category D Mgmt.	Category E Mgmt.	Category F Mgmt.	Category G Mgmt.	Category I Mgmt.	Category J Mgmt.	Category K Mgmt.
CETP 1	8		Basic Principles and Practices	x	x	x	x	x	x	x
CETP 2	8		Propane Delivery		x		x			
CETP 3	8		Distribution Systems Operations	x	x					
CETP 4	8		Transfer System Operations		x					
CETP 5	8		Appliance Installation	x	x					
CETP 6	8		Appliance Service	x	x					
CETP 7	8		Large Industrial/Commercial	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(g) -- Table Four

COURSES WHICH COUNT TOWARDS CONTINUING EDUCATION CREDIT FOR EMPLOYEE-LEVEL APPLICANTS OR CERTIFICATE HOLDERS (September 2003)

Course Number	Course Hours[1]	AFT	Course Title	Portable Cylinder Filling	Motor & Mobile Fuel	Bobtail[2]	Delivery Truck/ Service & Installation[3]	Service & Installation	Appliance Service & Installation
CETP 1	8		Basic Principles and Practices	x	x	x	x	x	x
CETP 2	8		Propane Delivery		x		x		
CETP 4	8		Distribution Systems Operations	x	x				
CETP 5	8		Transfer System Operations		x				
CETP 6	8		Appliance Installation	x	x				
CETP 7	8		Appliance Service	x	x				
CETP 8	8		Large Industrial/Commercial	x	x				
PERC Gas Check	8		GAS Check	x	x				

Note: The CETP 3 course, Plant Operations, is not accepted by the Commission for continuing education credit.

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

[2] A "Bobtail Driver" notation on a Railroad Commission LP-gas certification card indicates the individual is authorized only to operate a bobtail truck and perform minor service activities.

[3] A "Delivery Truck" notation on an LP-gas certification card indicates the individual is authorized to perform delivery truck and service and installation activities.

§9.53 Continuing Education Credit for Previous Courses

An individual who is a current and valid certificate holder as of March 1, 2001, may receive credit toward the first continuing education requirement to be completed by the due date assigned by the Commission as described in §9.52(b) of this title (relating to Training and Continuing Education Courses) if the individual completed one or more of the following:

(1) Commission classroom classes. An individual who attended a Commission class on or after September 1, 1997, shall receive credit as shown in the tables in §9.52(g) of this title (relating to Training and Continuing Education Courses) for a class if it is directly related to the LP-gas activities authorized by that individual's certificate.

(2) Commission computer-based courses. An individual who completed a Commission computer-based course between September 1, 1997, and September 1, 2003, shall receive credit as shown in the tables in §9.52(g) for up to two courses, for a total of eight hours, if the courses were applicable to the individual's LP-gas activities. An individual who has received credit for a computer-based course shall attend a classroom-based course the next time that individual is required to attend a continuing education course.

(3) CETP classes. An individual who has attended a CETP class on or after September 1, 1997, shall receive credit as shown in the tables in §9.52(g) if the class applies directly to the LP-gas activities authorized by the individual's certificate. Individuals wishing to receive credit for a CETP class shall submit to the AFRED training section, in writing, the individual's name, address, phone number, Social Security number, current LP-gas certification, CETP class date, and a copy of the CETP certificate for an equivalent CETP class as follows:

(A) Basic Principles and Practices;

(B) Propane Delivery;

(C) Plant Operations;

(D) Distribution Systems Operations;

(E) Transfer Systems Operations;

(F) Appliance Installation;

(G) Appliance Service; or

(H) Large Industrial/Commercial.

§9.54 Commission-Approved Outside Instructors

(a) General.

(1) The Commission 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 classes to Category D or K management-level applicants or certificate holders and to service and installation and appliance service and installation employee-level applicants or certificate holders.

(B) Authorized Category E outside instructors may offer only the applicable training and continuing education classes to Category D or K management-level applicants and to portable cylinder filling, motor/mobile fuel dispenser, delivery truck, service and installation, and appliance service and installation applicants and employee-level 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 Commission 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 Commission's curricula and materials are available from the Commission at a reasonable cost.

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

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

(2) a copy of the applicant's Category D or E current certification card or, in the case of Category D only, a copy of the master or journeyman plumber/class A or B exemption card issued by the LP-Gas Safety Section;

(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 the Commission's 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 courses);

(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 the Commission's course or courses on the same topic or topics, and shall include all applicable current LP-gas regulations for Texas. Courses not offered by the Commission may be approved if the courses are equal or greater in overall quality to other approved courses.

(d) Commission review. The Commission 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, the Commission's 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 the Commission's 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 the Commission shall attend the Commission's 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, the Commission shall notify the applicant in writing that the applicant is approved as an outside instructor and the outside instructor may then begin offering the courses for which the Commission approved the outside instructor.

(g) Term of approval. Commission 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 Commission-approved LP-gas classes, an outside instructor shall renew his or her Commission approval every three years by paying a $150 renewal fee to the Commission and attending a Train-the-Trainer refresher class prior to the outside instructor's next renewal deadline.

(i) Revision of course materials. An outside instructor who revises any course materials previously approved by the Commission shall submit the revisions in writing, along with a $100 review fee to the Commission, and shall not use the materials in a course until the outside instructor has received written Commission approval. The Commission 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. If the revised course materials are not approved, the Commission's 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 the Commission's 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 or E certificate or Category D exemption card in continuous good standing. The Train-the-Trainer class shall not count as credit towards any training or continuing education requirements. Any interruption of the required Category D or E certification or Category D exemption card may result in the Commission revoking the outside instructor's approval;

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

(3) report to the Commission within three business days of the conclusion of a class the names, social security numbers, and any other information required by the Commission, of the persons completing the class. The report shall be made by electronic mail (e-mail) in an electronic format provided by the Commission. The outside instructor shall ensure that the Commission receives the report by securing written acknowledgment of its receipt by the Commission. This acknowledgment may be by return electronic mail (e-mail) or by facsimile transmission (fax).

(k) Disclaimer. Outside instructors are responsible for every aspect of the classes they teach, including the location, schedule, date, time, duration, price, content, material, demeanor and conduct of the outside instructor, and reporting of attendance information. The Commission shall not monitor or supervise the actual class presentations by outside instructors. The Commission 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. The Commission may refuse to issue or renew a certificate for an individual who presents for Commission credit an unapproved class; a class taught by an unapproved outside instructor; or a class taught using unapproved, incomplete, or incorrect materials.

(l) Complaints.

(1) Complaints regarding outside instructors shall be made to the Commission in writing by electronic mail (e-mail), facsimile transmission (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 set forth the facts that the complainant alleges demonstrate that the outside instructor:

(A) failed to meet or maintain Commission 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, the Commission may gather any additional information

necessary or appropriate to making a full and complete analysis of the complaint. The Commission shall deliver a written copy of the analysis and any findings by certified mail 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 the Commission determines that an outside instructor has engaged in conduct prohibited by this section, the Commission may prepare a report that states the facts on which the determination is based and the recommendation as to the action the Commission intends to take. The Commission 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) The Commission shall mail a copy of the report and recommendation to the outside instructor by certified mail 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 the Commission in writing of the acceptance, and the Commission 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 director shall refer the matter to the Office of General Counsel for the setting of a hearing. The Office of General Counsel shall assign an examiner to conduct a hearing, which shall be conducted under the Commission's General Rules of Practice and Procedure, Chapter 1 of this title (relating to Practice and Procedure).

(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 - STATIONARY INSTALLATIONS AND CONTAINER REQUIREMENTS

§9.101 Filings Required for Stationary LP-Gas Installations

(a) 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 LP-Gas Safety Rules and statutes, in addition to any applicable requirements of the municipality or the county where an installation is or will be located.

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

(1) Within 10 calendar days following the completion of a container installation, the licensee shall submit LPG Form 501 to the Commission stating:

(A) the installation is in total compliance with the statutes and LP-Gas Safety Rules;

(B) all necessary LP-gas licenses and certificates have been issued; and

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

(2) 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 listed on the form. A nonrefundable $20 fee shall be required for any resubmission.

(3) The Commission 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 operations may commence prior to the submission of LPG Form 501 if the facility is in compliance with the LP-Gas Safety Rules.

(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 the Commission 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 containers already on site or proposed to be on site;

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

(iii) any known potential hazards.

(E) pay a nonrefundable fee of $50 for the initial application. A nonrefundable $30 fee shall be required for any resubmission.

(2) In addition to NFPA 58, §3.2.3.3, prior to the installation of any individual LP-gas container, the Commission shall determine whether the proposed installation constitutes a danger to the public health, safety, and welfare.

(A) The Commission 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 operations 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) If an LP-gas stationary installation, equipment, or appurtenances not specifically covered by the LP-Gas Safety Rules has been or will be installed, the Commission shall apply and require any reasonable safety provisions to ensure the LP-gas installation is safe for LP-gas service. If the affected entity disagrees with the Commission's determination, the entity may request a hearing. The installation shall not be placed into LP-gas operation until the

Commission has determined that the installation is safe for LP-gas service.

(4) The Commission shall notify the applicant in writing outlining its findings. If the application is administratively denied, the applicant may modify the submission and resubmit it or request a hearing on the matter in accordance with the General Rules of Practice and Procedure of the Railroad Commission of Texas.

(5) The licensee shall not commence construction until notice is received from the Commission. Upon completion of a field inspection as specified in §9.109 of this title (relating to Physical Inspection of Stationary LP-Gas Installations), the operator, pending the inspection findings, may commence LP-gas operations of the facility.

(d) 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 a capacity of 10,000 gallons or more.

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

(f) In addition, the Commission may request LPG Form 5, LPG Form 8, or any other documentation or information pertinent to the installation in order to determine compliance with the LP-Gas Safety Rules.

(g) If the subject installation is not completed within one year from the date of the Commission's completed review, the requirements of subsection (c) shall be resubmitted for the Commission's review.

§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 the Commission. The Commission 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. 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) the Commission 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 situated within 500 feet of the proposed location of any LP-gas containers of 10,000 gallon aggregate water capacity or more receiving notice of a proposed installation shall have 18 calendar days from the date the notice is postmarked to file a written objection using the LPG Form 500A sent to them by the applicant as described in §9.107(a)(2) of this title (relating to Hearings on Stationary LP-Gas Installations) with the Commission. An objection is considered timely filed when it is actually received by the Commission.

(b) The Commission 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 LP-Gas Safety Rules, 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, the Commission shall either:

(1) schedule 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 being returned. The objecting entity shall have 10 calendar days from the postmark of the Commission's 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. The Commission shall call 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) the Commission receives an objection that complies with §9.103 of this title (relating to Objections to Proposed Stationary LP-Gas Installations); or

(3) the Commission determines that a hearing is necessary to investigate the impact of the installation.

(b) Notice of public hearing. The Commission 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 (relating to Notice of Stationary LP-Gas Installations).

(c) Procedure at hearing. The public hearing shall be conducted in accordance with the Texas Government Code, Chapter 2001 et seq., the general rules of practice and procedure of the Railroad Commission of Texas, and the LP-Gas Safety Rules.

§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 LP-Gas Safety Rules 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; or

(2) a physical inspection of the installation indicates that it is not installed in compliance with the submitted plat drawing for the installation, the LP-Gas Safety Rules 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 the Commission in writing when the installation is ready for inspection. If the Commission 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 complete inspection is made. If any safety rule violations exist at the time of the Commission's initial inspection, the installation may be required to cease LP-gas operations until the violations are corrected.

(b) Aggregate water capacity of less than 10,000 gallons. After receipt of LPG Form 501, the Commission shall conduct an inspection as soon as possible to verify that the installation described is in compliance with the LP-Gas Safety Rules. The facility may be operated prior to inspection if it is in compliance with the LP-Gas Safety Rules. If any LP-gas statute or safety rule violation exists at the time of the first inspection at a commercial installation, the subject container, including any piping, appliances, appurtenances, or equipment connected to it may be immediately removed from LP-gas service until the violations are corrected.

(c) Material variances. If the Commission determines the completed installation varies materially from the application originally accepted, correction of the variance and notification to the Commission 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 the Commission inspection identifies violations requiring modifications by the applicant, the Commission 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, the Commission may waive the requirement for the initial complete 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 the Commission grants permission to do so.

§9.113 Maintenance

All LP-gas storage containers, valves, dispensers, accessories, piping, and transfer equipment shall be maintained in working order in accordance with the manufacturer's instructions and the LP-Gas Safety Rules. If LP-gas storage containers, valves, dispensers, accessories, piping, and transfer equipment is not in working order, the installation shall be immediately removed from LP-gas service and shall not be operated until the necessary repairs have been made.

§9.114 Odorizing and Reports

(a) Odorization shall comply with NFPA 58, §1.3.

(b) If the Commission determines that there shall be insufficient odorization, the Commission may require testing as deemed necessary to determine its sufficiency. If testing is deemed necessary, the Commission 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 the Commission.

(c) The person or facility odorizing the gas or the operator of an automatic loading rack shall be responsible for the odorization and for filing LPG Form 17 with the Commission.

(d) Each person or facility who odorizes LP-gas shall file with the Commission a completed LPG Form 17 after each quarter of the Railroad Commission's fiscal year. The Railroad Commission's fiscal year begins on September 1 of one year and ends on August 31 of the next year. The reports are due as follows:

(1) The report for the quarter ending on November 30 shall be postmarked by December 31.

(2) The report for the quarter ending on February 28 (or February 29 in the case of a leap year) shall be postmarked by March 31.

(3) The report for the quarter ending on May 31 shall be postmarked by June 30.

(4) The report for the quarter ending on August 31 shall be postmarked by September 30.

(5) If a specified due date falls on a Saturday, Sunday, or holiday, the report shall be postmarked by 5:00 p.m. on the next business day following the Saturday, Sunday, or holiday.

§9.115 Examination and Testing of Containers

(a) In order to determine the safety of a container, the Commission may require that the licensee or operator of the container send a copy of the manufacturer's data report on that container to the Commission. The Commission 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 the Commission 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 the Commission 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 properly completed LPG Form 23 with the Commission 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 the Commission, unless that container is owned by a valid licensee. In this case, the Commission may determine that such tests are not necessary upon the receipt of an acceptable LPG Form 23 from the licensee.

§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 LP-Gas Safety Rules;

(2) there is no test specification or procedure developed by the testing laboratory for the appurtenance or equipment.

(b) Appurtenances and equipment that cannot be listed but are not prohibited for use by the LP-Gas Safety Rules or the manufacturer's instructions shall be acceptable for LP-gas service, provided the appurtenances and equipment are installed in compliance with the applicable LP-Gas Safety Rules.

(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, furnished copies to the Commission.

(d) Compliance under this section does not ensure conformity with other state and federal regulations, such as those of the Texas Natural Resource Conservation Commission.

§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 Railroad 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 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; and

(4) the container's water capacity.

(e) Nameplates on 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 following information in characters at least 5/32 inch high:

(1) service for which the container is designed (underground, aboveground, or both);

(2) name and address of container supplier or trade name of container;

(3) water capacity of container in pounds or U.S. gallons;

(4) design pressure in pounds per square inch;

(5) the wording "This container shall not contain a product that has a vapor pressure in excess of _____ psi at 100 degrees F";

(6) outside surface area in square feet;

(7) year of manufacture;

(8) shell thickness and head thickness;

(9) overall length of the container, the outside diameter of the container, and dish radius of the heads;

(10) manufacturer's serial number; and

(11) ASME Code symbol.

(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 the Commission 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) The Commission may remove a container from LP-gas service or require ASME acceptance of a container at any time if the Commission 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 the Commission. 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 a clear and concise sketch of the container showing dimensions, nozzle openings, and size, as well as photographs, at least three inches by five inches, of the container. Photographs shall depict the nameplate and the reason for the request for an identification nameplate, that the original nameplate is becoming either detached or unreadable. If a photograph cannot clearly depict the lettering on the nameplate, a pencil rubbing of the nameplate shall be submitted.

(2) The Commission shall review LPG Form 502 and the supporting documentation. The Commission shall have the manufacturer's data report on file for the container or the licensee shall provide a copy to the Commission. 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, the Commission 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;

(B) projected travel costs for the Commission employee performing the inspection and/or attachment of the nameplate, including mileage and per diem rates set by the legislature; and

(C) hourly research fees calculated according to §20.105 of this title (relating to Charges for Providing Copies of Public Information), as applicable.

(3) The owner or operator of the container shall pay the total estimated costs to the Commission before the Commission will proceed. Within 15 business days of receipt of all required documents and fees, the Commission 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 LP-Gas Safety Rules, unless additional time is necessary as determined by the assistant 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, the Commission shall proceed with the attachment of the nameplate.

(D) Within the 15-day period, the Commission shall notify the applicant in writing, in clear and specific language, of the outcome of the Commission's review.

(4) Following the Commission's review of any required tests and payment of all other amounts due in addition to the previously-paid estimated costs, and when all requirements have been met, the Commission 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 the Commission has received the final paperwork for the Commission employee who attached the nameplate. The Commission shall mail a letter to the owner or operator of the container 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, the Commission 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 section. 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 the Commission's

travel and research costs will be refunded only if the Commission's 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, §2.2.2.2 and §2.3.2.3, 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 an LP-gas container to an unlicensed individual for resale or 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 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, provided the piping system complies with the LP-Gas Safety Rules.

§9.135 Unsafe or Unapproved Containers, Cylinders, or Piping

In addition to NFPA 58, §2.2.1.4, 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 LP-Gas Safety Rules.

§9.136 Filling of DOT Containers

(a) DOT containers of less than 101 pounds LP-gas capacity, other than containers designed to be used on forklift or industrial trucks, 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) Add the tare weight of a cylinder to the liquid weight of the product plus the weight of the hose and nozzle. The

total weight of these three is the proper scale setting.

(b) Containers designed to be used on forklifts or industrial trucks shall be filled as specified in NFPA 58, §8.3.

§9.137 Inspection of Cylinders at Each Filling

In addition to NFPA 58, §2.2.1.5, before filling a DOT cylinder, the individual filling the cylinder shall examine the cylinder. Where the cylinder is found to be dented or bulged, where the metal is gouged, or where there is evidence of corrosion which substantially reduces the integrity of the cylinder, such cylinder shall not be filled.

§9.140 Uniform Protection Standards

(a) LP-gas transfer systems and storage containers shall be protected from tampering and/or vehicular traffic as specified in this section. New LP-gas containers which have never been installed or had LP-gas introduced into them, or other installations listed in paragraphs (1) - (4) of this subsection, are not required to comply with the fencing and guardrailing requirements in subsections (b) and (c) of this section. The fencing and guardrailing requirements also do not apply to the following:

(1) LP-gas systems and containers located at private residences;

(2) LP-gas systems and containers which service vapor systems where the aggregate storage capacity of the installation is less than 4,001 gallons, unless the LP-gas system, transfer system, or container is subject to tampering or vehicular traffic;

(3) LP-gas piping which contains no valves and which complies with all other applicable LP-Gas Safety Rules; and

(4) LP-gas storage containers located on a rural consumer's property from which motor or mobile fuel containers are filled.

(b) In addition to NFPA 58, §§3.3.6.1, 3.4.2.4, 3.9.3.6, 4.2.3.8, 5.2.1.1, and 5.4.2.1, fencing at LP-gas installations shall comply with the following:

(1) Fencing material shall be chain link with wire at least 12 1/2 American wire gauge in size.

(2) Fencing shall be at least six feet in height at all points.

(3) Uprights, braces, and cornerposts of the fence shall be composed of noncombustible material.

(4) 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. The width of the gate shall be sufficient to prevent binding of the transfer hoses on the gate posts and to ensure breaking of the bulkhead pipe risers or nipples in the event of a pullaway. There shall be at least two means of emergency access from the fenced enclosure. If guard service is provided, it shall be extended to the LP-gas installation. Guard service shall be properly trained as set forth in §9.51(b)(4) of this title (relating to General Requirements for Training and Continuing Education). However, if a fenced area is not larger than 100 square feet in area, the point of transfer is within three feet of a gate, and any

containers being filled are not located within the enclosure, a second gate shall not be required.

(5) Clearance of at least three feet shall be maintained between the fencing and the container, material handling equipment, and the entire dispensing system.

(6) Fencing which is located more than 25 feet from any point of an LP-gas transfer system or container shall be designated as perimeter fencing. If an LP-gas transfer system or container is located inside perimeter fencing and is subject to vehicular traffic, it shall be protected against damage according to the specifications set forth in subsection (d) of this section.

(7) The operating end of a container, including all material handling equipment and the entire dispensing system, shall be completely enclosed by fencing.

(c) Containers which are exempt from the fencing requirements include:

(1) ASME containers or manual dispensers originally manufactured to or modified to be considered by the Commission as self-contained units. Self-contained units shall be protected as specified in subsection (d) of this section;

(2) DOT portable or forklift containers in storage racks or at single family dwellings used as private residences; and

(3) DOT portable or forklift containers that have been used in LP-gas service but are not awaiting use or resale.

(d) In addition to NFPA 58, §§3.2.4.2, 3.2.9.1(a)-(d), 3.2.9.2(d), 3.3.6.1, 3.9.3.8, 5.4.2.1, guardrails at LP-gas installations, except as noted in subsection (a) of this section, shall comply with the following:

(1) Where fencing is not used to protect the installation as specified in subsection (b) of this section, locks for the valves or other suitable means shall be provided to prevent unauthorized withdrawal of LP-gas.

(2) Vertical supports for guardrails 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 into the guardpost; 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.

(3) The top of the horizontal guardrailing shall be secured to the vertical supports at least 30 inches above the ground. The horizontal guardrailing shall be at least three-inch schedule 40 steel pipe or other material with equal or greater strength. The horizontal guardrailing shall be capped on the ends or otherwise protected to prevent the entrance of water or debris into the guardpost; 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.

(4) Openings in horizontal guardrailing, except the opening that is required 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.

(5) Clearance of at least three feet shall be maintained between the railing and any part of an LP-gas transfer system or container or clearance of two feet for retail cylinder filling or service station installations. The two posts at the ends of any railing which protects a bulkhead shall be located at 45-degree angles to the corner of the bulkhead.

(6) The operating end of the container, including all material handling equipment and the entire dispensing system, and any part of the LP-gas transfer system or container which is exposed to collision damage or vehicular traffic shall be protected from this type of damage. The 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.

(e) A combination of fencing and guardrails specified in subsections (b) and (d) of this section shall not result in less protection than using either fencing or guardrails alone.

(f) If exceptional circumstances exist or will exist at an installation which would require additional protection such as larger-diameter guardrailing, then the licensee or operator shall install such additional protection. In addition, the Commission 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. The Commission 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 the Commission's 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 the Commission or removed from service with all product withdrawn from it until the Commission's final decision.

(g) LP-gas installations shall comply with the sign and lettering requirements specified in Table 1 of this section. An asterisk indicates that the requirement applies to the equipment or location listed in that column.

Figure: 16 TAC §9.140(g)

§9.140. Uniform Protection Standards -- Table 1

Requirements	Automatic 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 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: WORKING PRESSURE ____ PSIG 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. _____			*	*

(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 Bulkhead, Internal Valve, and ESV 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.

(h) In addition to NFPA 58, §5.4.2.2, 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 guardposts, provided that:

(A) the guardposts are at least three-inch schedule 40 steel pipe, capped on top or otherwise protected to prevent the entrance of water or debris into the guardpost, 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) if the guardposts cannot be anchored in concrete at least 30 inches below ground, they 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 guardpost, and attached by welding to a minimum 8-inch by 8-inch steel plate at least 1/2 inch thick. The guardposts and steel plate shall be permanently installed.

(3) Guardrail or guardposts are not required to be installed if:

(A) any portable cylinder exchange rack is located against a building or attached structure;

(B) the rack is located on a walkway which is a minimum of four inches in height above the grade of the driveway or parking space;

(C) a minimum six-inch-high cement parking wheelstop is installed on the driveway or parking space;

(D) the cement parking wheelstop is secured against displacement; and

(E) the distance from the cement parking wheelstop to any portable cylinder exchange rack is 48 inches or more.

(4) A wheelstop is not required to be installed if a curb is at least six inches tall and the cylinder exchange rack is at least 48 inches away from the curb.

(5) If exceptional circumstances exist or will exist at the location of a storage rack which would require additional protection such as larger-diameter guardrailing or guardposts, then the licensee or operator of the installation shall install such additional protection. In addition, the Commission 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. The Commission shall notify the person in writing of the specific 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 the Commission's 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 the Commission or removed from service with all product withdrawn from it until the Commission's final decision.

§9.141 Uniform Safety Requirements

(a) In addition to NFPA 58, §3.2.4.1(f), 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 the Commission disapproves of a certain color, the licensee or ultimate consumer shall provide to the Commission information from the container or paint manufacturer stating specific reasons why the color is heat-reflective and should be approved. The assistant director shall make the final determination and shall notify the licensee or ultimate consumer.

(b) In addition to NFPA 58, §3.9.4.2, 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. Any vapor return hose installed at such installations shall also be equipped with a breakaway device. 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) Locking handles on ball-type shutoff valves. 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 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) Pumps. A retail operated DOT portable container filling installation and/or service station installation shall be equipped with a pump.

(e) In addition to NFPA 58, §2.2.6.1, all containers shall be numbered in accordance with the requirements set forth in Table 1 of §9.140 of this title (relating to Uniform Protection Standards).

(f) In addition to NFPA 58, §3.2.2.8, no canopies or coverings are allowed over any LP-gas container 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 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. The Commission 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, the Commission 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.

(i) A licensee who installs an LP-gas container, including containers on converted vehicles, or containers on industrial trucks, except those used for bulk storage or retail DOT container filling/service station installations, shall attach to the container a decal or tag of metal or other permanent material indicating the following information:

(1) the licensee's name;

(2) the LP-gas license number; and

(3) the year the container was installed.

(4) A single identification decal or tag may be used to satisfy the requirements in §§9.206, 9.307, and 9.308 of this title (relating to Vehicle Identification Labels, Identification of Converted Appliances, and Identification of Piping Installation, respectively).

§9.142 LP-Gas Container Storage and Installation Requirements

Except as noted in this section, LP-gas containers shall be stored or installed in accordance with the distance requirements in NFPA 58, §3.2.2 and the entries for §3.2.2.7 and §5.4.1 as indicated in the table in §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes, Additional Requirements, or Corrections) and any other applicable requirements in NFPA 58 or the LP-Gas Safety Rules.

(1) An LP-gas liquid dispensing installation other than a retail operated DOT portable container filling/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, §3.2.2, 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 Bulkhead, Internal Valve, and ESV Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More

(a) Instead of NFPA 58, §3.2.10.11, effective February 1, 2001, new stationary LP-gas installations with individual or aggregate water capacities of 4,001 gallons or more, including licensee and nonlicensee locations, shall install a vertical bulkhead and pneumatically-operated internal valves and pneumatically-operated emergency shutoff valves (ESVs), as required in this section and in the table in §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted With Changes, Additional Requirements, or Corrections) for NFPA 58, §§3.2.18.1, 3.3.3.6, and 3.11.3. The filling of a container solely through a 1 3/4 inch double back check filler valve, directly installed in the container, and withdrawal of LP-gas through a commercially manufactured liquid evacuation valve, is exempt from the requirements of this section.

(b) Within two years of February 1, 2001, or by February 1, 2003, at the latest, stationary LP-gas installations in existence as of February 1, 2001, with individual or aggregate water capacities of 4,001 gallons or more, including licensee and nonlicensee locations, or railroad tank car transfer systems to fill trucks with no stationary storage involved, which do not have a bulkhead and/or backflow check valves where the flow is in one direction into the container and ESVs installed shall install vertical bulkheads and pneumatic ESVs. The filling of a container solely through a 1 3/4 inch double back check filler valve, directly installed in the container, and withdrawal of LP-gas through a commercially manufactured liquid evacuation valve, is exempt from the requirements of this section.

(1) The pneumatic ESVs 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 24 inches long installed between the ESV and the bulkhead.

(2) The ESVs shall be installed in the piping so that any break resulting from a pullaway 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. 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) Temperature sensitive elements of ESVs 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 and ESVs shall be incorporated into at least one remote operating system.

(c) Existing installations which have horizontal bulkheads and/or backflow check valves where the flow is in one direction into the container or cable-actuated ESVs are not required to replace that equipment except as follows:

(1) If the horizontal bulkhead requires replacement, it shall be replaced with a vertical bulkhead;

(2) If a backflow check valve or a cable-actuated ESV requires replacement, it shall be replaced with a pneumatic actuated ESV; or

(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 pneumatic actuated ESVs.

(d) Bulkheads, whether horizontal or vertical, shall comply with the following requirements:

(1) Bulkheads shall be installed for both liquid and vapor return piping;

(2) Only one or 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 pullaway;

(3) Both liquid and vapor transfer hoses shall be plugged or capped;

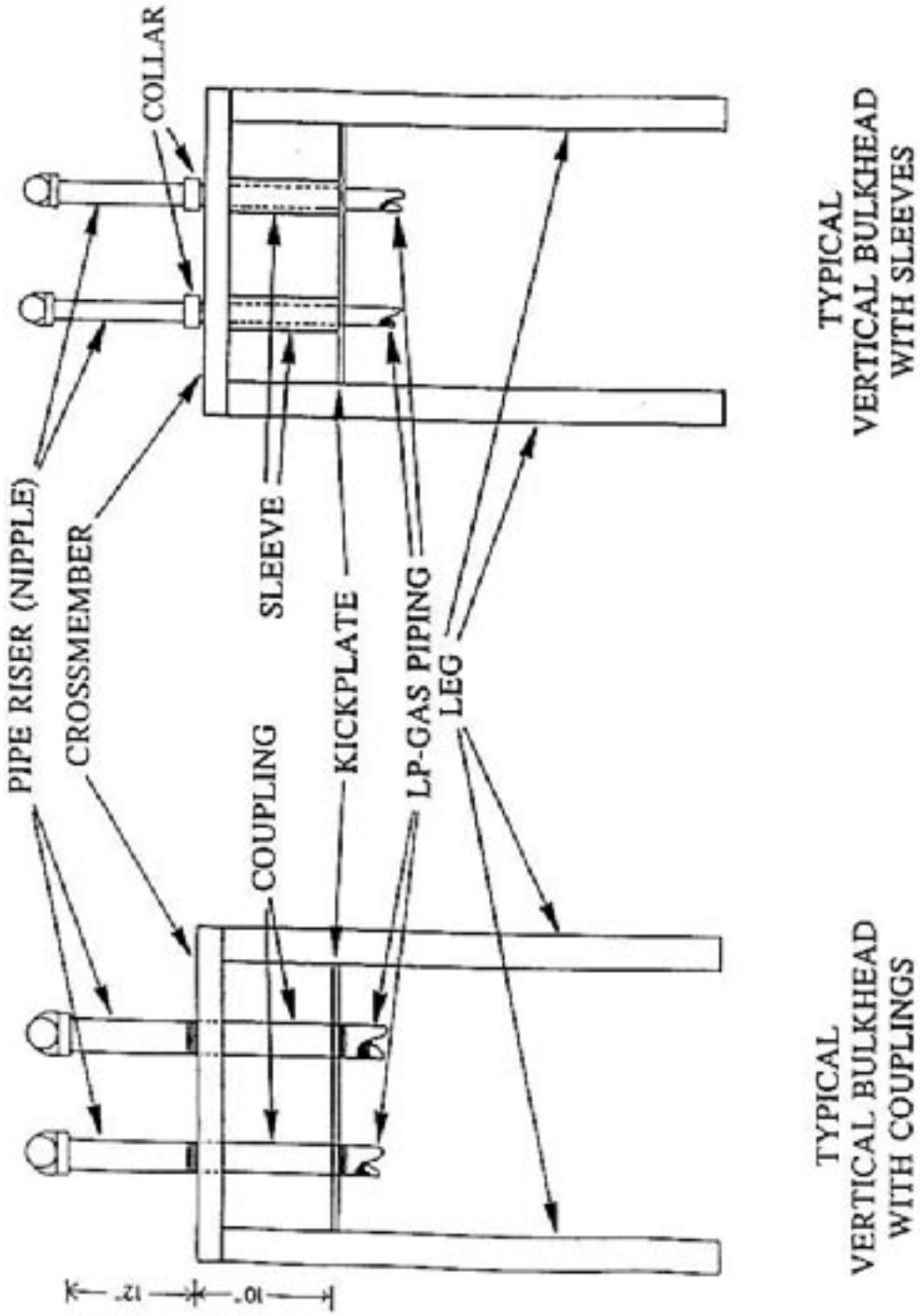
(4) Bulkheads shall be located at least 10 feet from the container or containers. If the 10-foot distance cannot be obtained, the licensee or nonlicensee shall inform the Commission in writing and include all necessary information. The Commission may grant administrative distance variances to a minimum 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.

Figure: 16 TAC §9.143(d)(7)



(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 28 inches or less above ground level and 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;

(D) The kick plate shall be 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, §2.4.4 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 or a vertical bulkhead, swivel-type piping (breakaway loading arm) may be installed. The swivel-type piping shall meet all applicable provisions of the LP-Gas Safety Rules. The swivel-type piping may also be used for unloading, 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) The Commission 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.

(e) In addition to NFPA 58, §2.3.3.2 as amended in the table in §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes, Additional Requirements, or Corrections), ESVs and internal valves shall have emergency remote controls conspicuously marked according to the requirements of Table 1 of §9.140 of this title (relating to Uniform Protection Standards). Effective February 1, 2001, for all new 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. Existing installations shall comply by August 1, 2001. The use of swivel-type piping as specified in subsection (d)(8) of this section shall not eliminate the requirement for an ESV. Swivel-type piping may be installed between the bulkhead and the minimum 12-inch nipple, but shall not eliminate the requirement for an ESV. The swivel-type piping shall be installed and maintained according to the manufacturer's instructions.

(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 LP-Gas Safety Rules. If the bulkheads, internal valves, backflow check valves and ESVs are not in working order in accordance with the manufacturer's instructions and the LP-Gas Safety Rules, 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) 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 be replaced with a stainless steel flexible connector. Stainless steel flexible connectors shall be 36 inches in length or less, and shall comply with all applicable LP-Gas Safety Rules. Flexible connectors installed at a new installation after February 1, 2001, shall be stainless steel.

(h) If necessary to increase LP-gas safety, the Commission 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.

SUBCHAPTER C – VEHICLES AND VEHICLE DISPENSERS

§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.

(b) All transports and moveable fuel storage tenders shall comply with MC-330 or MC-331, or the exemption in Title 49, Code of Federal Regulations (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 Title 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: "Manholes and valves closed. A person may not drive a cargo tank and a motor carrier may not permit a person to drive a cargo tank motor vehicle containing a hazardous material regardless of quality unless all manhole closures are closed and secured, and all valves and other closures in liquid discharge systems are closed and free of leaks."

(2) 49 CFR §177.840(g) states: "Each liquid discharge valve on a cargo tank, 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 the Commission 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 the Commission the $270 registration fee for each bobtail truck, semitrailer, container delivery unit, or other motor vehicle equipped with LP-gas cargo tanks; and

(B) file a properly completed LPG Form 7.

(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 the Commission 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.

(3) To transfer a 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) The Commission may also request that an operator registering or transferring any unit:

(1) file a copy of the Manufacturer's Data Report; or

(2) have the unit tested by a test other than those required by §9.208 of this title (relating to Testing Requirements).

(c) When all registration or transfer requirements have been met, the Commission 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 the Commission.

(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 the Commission.

(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 form 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) The Commission shall not issue an LPG Form 4 if the Commission or a Category A, B, or O licensee determines that the transport is unsafe for LP-gas service.

(6) If an LPG Form 4 decal on a unit currently registered with the Commission 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 the Commission.

§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 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 the Commission in writing on LPG Form 503 that the applicable LP-gas powered vehicles are ready for a complete inspection to determine compliance with the LP-Gas Safety Rules.

(b) If the Commission's initial complete inspection finds the vehicle in compliance with the LP-Gas Safety Rules 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. Inspections shall be conducted within a reasonable time frame to ensure the vehicles are operating in compliance with the LP-Gas Safety Rules . 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. For public transportation vehicles only, either manufactured to use or converted to LP-gas, if the Commission 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 LP-Gas Safety Rules. The manufacturer, licensee, or ultimate consumer shall file with the Commission documentation demonstrating compliance with the LP-Gas Safety Rules, or the Commission shall conduct another complete inspection before the vehicle may be placed into LP-gas service.

(c) The manufacturer, licensee, or ultimate consumer making the installation or conversion shall be responsible for compliance with the LP-Gas Safety Rules, statutes, and any other local, state, or federal requirements.

(d) If the requested Commission inspection identifies violations requiring modifications by the manufacturer, licensee, or ultimate consumer, the Commission 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.

§9.206 Vehicle Identification Labels

(a) 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, §8.2.10, 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, Additional Requirements, or Corrections).

(b) Upon completion of a vehicle conversion, the licensee making the conversion shall affix to the vehicle a decal or tag of metal or other permanent material in a readily visible location indicating the following information:

(1) the licensee's name;

(2) the LP-gas license number; and

(3) the year and month the vehicle was converted.

(c) A single identification decal or tag may be used to satisfy the requirements in §§9.141, 9.307, and 9.308 of this title (relating to Uniform Safety Requirements, Identification of Converted Appliances, and Identification of Piping Installation, respectively).

§9.207 Requirements for Movable Fuel Storage Tenders, Such as Farm Carts

The movement of any movable fuel storage tenders shall comply with NFPA 58 or any applicable DOT requirements or exemptions.

§9.208 Testing Requirements

Each transport container unit required to be registered with the Commission shall be tested in accordance with 49 CFR. The tests shall be conducted by a Category A, B, or O licensee. 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, the transport container unit shall be immediately removed from LP-gas service. The unit shall not be returned to LP-gas service until all necessary repairs have been made and the Commission authorizes in writing its return to service.

§9.211 Markings

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. The Commission shall determine whether the name marked on the unit is sufficient to properly identify the licensee or ultimate consumer.

§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 degree 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) 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 1999 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) 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, Automotive and Marine Service Station Code, 1996 edition;

(2) NFPA 37, Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, 1998 edition;

(3) NFPA 51, Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes, 1997 edition;

(4) NFPA 52, Compressed Natural Gas (CNG) Vehicular Fuel Systems, 1998 edition;

(5) NFPA 58, Liquefied Petroleum Gas Code, 2001 edition;

(6) NFPA 70, National Electrical Code, 1999 edition;

(7) NFPA 82, Standard on Incinerators, Waste, and Linen Handling Systems and Equipment, 1999 edition;

(8) NFPA 88A, Standard for Parking Structures, 1998 edition;

(9) NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems, 1999 edition;

(10) NFPA 90B, Standard for the Installation of Warm Air Heating and Air Conditioning Systems, 1999 edition;

(11) NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 1998 edition;

(12) NFPA 211, Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, 2000 edition;

(13) NFPA 409, Standard on Aircraft Hangars, 1995 edition; and

(14) NFPA 1192, Standard on Recreational Vehicles, 1999 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, §1.7, 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," "labeling," and "listed" in NFPA 54, §1.7.

(b) Qualified agency. The term "qualified agency" as defined in NFPA 54, §1.7, 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, §6.31

The Commission does not adopt NFPA 54, §6.31, which refers to NFPA 52, Compressed Natural Gas (CNG) Vehicular Fuel Systems. 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) and Liquefied Natural Gas (LNG)).

§9.306 Room Heaters in Public Buildings

In addition to applicable requirements in NFPA 54, Chapter 6, Installation of Specific Equipment, 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, §5.1.3, and NFPA 58, §2.6.2.1, upon completion of the conversion and testing of LP-gas appliances, the licensee shall attach to each such appliance a decal or tag of metal or other permanent material indicating the following information:

(1) the licensee's name;

(2) the LP-gas license number;

(3) the year the appliance was converted; and

(4) the wording, "Converted to LP-Gas."

(b) A single identification decal or tag may be used to satisfy the requirements in §§9.141, 9.206, and 9.308 of this title (relating to Uniform Safety Requirements, Vehicle Identification Labels, and Identification of Piping Installation, respectively) provided the decal or tag meets all the requirements of those sections.

§9.308 Identification of Piping Installation

(a) In addition to the requirements of NFPA 54, Part 3, Gas Piping Installation, LP-gas piping shall be installed, altered, repaired, and tested only by persons properly licensed or certified by the Commission.

(b) Upon completion of the installation, alteration, repair, or testing of an LP-gas piping system, the licensee shall attach to the end of the piping nearest the container a decal or tag of metal or other permanent material indicating the following information:

(1) the licensee's name;

(2) the LP-gas license number; and

(3) the year the piping was installed, altered, repaired, or tested.

(c) A single identification decal or tag may be used to satisfy the requirements in §§9.141, 9.206, and 9.307 of this title (relating to Uniform Safety Requirements, Vehicle Identification Labels, and Identification of Converted Appliances, respectively) provided the decal or tag meets all the requirements of those sections.

§9.311 Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support

(a) In addition to the requirements of NFPA 54, §5.5.2 regarding gas hose connectors, agricultural structures, such as greenhouses or broiler houses, or industrial structures not inhabited by humans may have appliance connectors more than six feet in length provided that:

(1) the hose used shall be marked as acceptable for LP-gas service;

(2) the hose shall comply with NFPA 58, §§2.4.6.1 through 2.4.6.3;

(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) In addition to the requirements in NFPA 54, §3.3.6, Table 3.3.6, the support spacing requirement for 3/4 to one inch pipe shall not apply to agricultural structures not inhabited by humans, such as greenhouses and broiler houses, provided that:

(1) such piping is supported by ceiling trusses no more than ten feet apart; and

(2) pipe joints and fittings are supported by the trusses.

§9.312 Certification Requirements for Joining Methods

(a) In addition to the requirements in NFPA 54, §2.6.9, and NFPA 58, §2.4.4.3, and in addition to other LP-gas certification requirements, prior to performing heat-fusion on polyethylene pipe or tubing, an individual shall be certified by either the Commission or a person or certification school authorized by the Commission. The certification shall confirm that the individual has a working knowledge of heat-fusion methods and the ability to properly perform the heat-fusion activity.

(b) The employer of an individual certified to perform heat-fusion activities shall complete LPG Form 506, which shall be maintained and available for review by a Commission representative. If the individual certified as required by subsection (a) of this section does not perform any heat-fusion activities for 12 consecutive months, that individual shall be recertified prior to resuming any heat-fusion activities.

(c) Licensees shall retain written proof regarding any current certifications for installation and repair methods for corrugated stainless steel tubing.

§9.313 Sections In NFPA 54 Adopted with Corrections

The Commission adopts certain NFPA 54 sections to include language corrected in the Errata dated October 21, 1999, and the Errata dated February 4, 2000, issued by NFPA to correct typographical or other errors in the published NFPA 54 pamphlet. According to NFPA, these errors may be corrected in future printings.

Figure 1: 16 TAC §9.313

NFPA 54 Sections Adopted with Corrections Made in NFPA Errata Dated October 21, 1999 and February 4, 2000	**Corrected Language for the NFPA 54 Sections Noted (underlining shows language added by the Errata; strike-outs show language deleted by the Errata)**
2.6.2(b)(3) (2/4/00)	ASTM A 106, Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service ~~Such pipe shall not be less than 3 in. size, shall not be welded, and shall be used only underground outside building foundation boundaries, or aboveground, provided that joints are properly restrained against movement and separation.~~
2.6.8(d)(2) (2/4/00)	Fittings used with steel or wrought-iron pipe shall be steel, brass, bronze, malleable iron, ~~ductile iron,~~ or cast iron.
2.6.10 (2/4/00)	**Flanges.** All flanges shall comply with ANSI/ASME B16.1, *Standard for Cast Iron Pipe Flanges and Flanged Fittings*; ANSI/ASME B16.20, *Standard for Ring-Joint Gaskets and Grooves for Steel Pipe Flanges;* ~~ANSI/AWWA C111/A21.11, Rubber Gasket Joints for Ductile-Iron Pressure Pipe and Fittings,~~ or MSS SP-6, *Standard Finishes for Contact Faces of Pipe Flanges and Connecting-End Flanges of Valves and Fittings*. The pressure-temperature ratings shall equal or exceed that required by the application.
3.1.2(a) (2/4/00)	**Cover Requirements.** Underground piping systems shall be installed with at least 18 in (460 ~~450~~ mm) of cover. The cover shall ...
3.3.5 (2/4/00)	**Prohibited Locations.** Gas piping inside any building shall not be installed in or through a circulating air duct, clothes chute, chimney or gas vent, ventilating duct, dumbwaiter, or elevator shaft. This provision shall not apply to ducts used to provide combustion and ventilation air in accordance with Section 5.3 or to above-ceiling spaces as covered in 3.3.4 ~~3-3.4~~.
4.3.3 (2/4/00)	**Discharge of Purged Gases.** The open end of piping systems being purged shall not discharge into confined spaces or areas where there are sources of ignition unless precautions are taken to perform this operation in a safe manner by ventilation of the space, control of ~~or~~ purging rate, and elimination of all hazardous conditions.
5.1.5 (2/4/00)	**Use of Air or Oxygen Under Pressure.** Where air or oxygen under pressure is used in connection with the gas supply, effective means such as a back-pressure regulator and relief valve shall be provided to prevent air or oxygen from passing back into the gas piping. Where oxygen is used, installation shall be in accordance with NFPA 51, *Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes*~~, NFPA 51~~.
5.3.2 (2/4/00)	**Equipment Located in Unconfined Spaces.** Equipment located in buildings of unusually tight construction (see Section 1.7) shall be provided with air for combustion, ventilation, and dilution of flue gases using the methods described in 5.3.3(b) or 5.3.4 ~~5.3.3, 5.3.4 or 5.3.5~~.
5.3.3(b)(1) (2/4/00)	Two permanent openings, one commencing within 12 in. (300 mm) of the top and one commencing within 12 in. (300 mm) of the bottom, of the enclosure shall be provided. The openings shall communicate directly, or by ducts, with the outdoors or spaces ~~(crawl or attic)~~ that freely communicate with the outdoors.
5.3.3(b)(1)b (10/21/99)	Where communicating with the outdoors through horizontal ducts, each opening shall have a minimum free area of ~~not less than~~ 1 in.^{2}/ 2000 Btu/hr (1100 mm^2/kW) of total input rating of all equipment in the enclosure. [*See Figure A.5.3.3(b)1b.*]
5.3.3(b)(2)a (10/21/99)	1 in.^{2}/3000 Btu/hr (700 mm^2/kW) ~~(700 mm^2 per kW)~~ of the total input rating of all equipment located in the enclosure, and

5.3.3(c) (10/21/99)	**Combination of air from the indoors and from the outdoors.** Where the building in which the fuel-burning appliances are located is not ~~of~~ unusually tight construction and the communicating interior spaces containing the fuel-burning appliances comply with all requirements of Section 5.3.3(a) except for the volumetric requirement of Section 5.3.3(a), required combustion and dilution air shall be obtained by opening the room to the outdoors utilizing a combination of indoor and outdoor air prorated in accordance with Section 5.3.3(c)(6). Openings connecting the interior spaces shall comply with Section 5.3.3(a). The ratio of interior spaces shall comply with Section 5.3.4(c)(5). The number, location, and ratios of openings connecting the space with the outdoor air shall comply with the following (also see ~~see also~~ sample calculation in Appendix L): (1) *Number and Location of Openings.* At least two openings shall be provided, one within 1 ft (300 ~~305~~ mm) of the ceiling of the room and one within 1 ft (300 ~~305~~ mm) of the floor. (2) *Ratio of Direct Openings.* Where direct openings to the outdoors are provided in accordance with Section 5.3.3(b), method 1a, the ratio of direct openings shall be the sum of the net free areas of both direct openings to the outdoors, divided by the sum of the required areas for both such openings as determined in accordance with Section 5.3.3(b), method 1a.
5.5.7 (2/4/00)	**Sediment Trap.** If a sediment trap is not incorporated as a part of the gas utilization equipment, a sediment trap shall be installed as close to the inlet of the equipment as practical at the time of equipment installation. The sediment trap shall be either a tee fitting with a capped nipple in the bottom outlet as illustrated in Figure 5.5.7 or other device recognized as an effective sediment trap. Illuminating appliances, ranges, clothes dryers, decorative vented appliances for installation in vented fireplaces, gas fireplaces, ~~decorative vented appliances,~~ and outdoor grills shall not be required to be so equipped.
6.1(a) (2/4/00)	This Chapter is applicable primarily to nonindustrial-type gas utilization equipment and installations and, unless specifically indicated, does not apply to industrial-type equipment and installations. Listed gas utilization equipment shall be installed in accordance with their listing and the manufacturers' instructions, or as elsewhere specified in this chapter ~~part~~. Unlisted equipment shall be installed as specified in this Chapter as applicable to the equipment.
Table 6.2.3(a), row III (2/4/00)	III Central heating boilers and furnaces, other than in I or II ~~I, II, or III~~
6.3.7 (2/4/00)	**Refrigeration Coils.** (a) A refrigeration coil shall not be installed in conjunction with a forced air furnace where circulation of cooled air is provided by the furnace blower, unless the blower has sufficient capacity to overcome the external static resistance imposed by the duct system and cooling coil and ~~at~~ the air throughput necessary for heating or cooling, whichever is greater.
6.10.6 (2/4/00)	**Duct Furnaces Used with Refrigeration Systems.** (a) A duct furnace shall not be installed in conjunction with a refrigeration coil where circulation of cooled air is provided by the blower. Exception: Where the blower has sufficient capacity to overcome the external static resistance imposed by the duct system, furnace, and the cooling coil and ~~at~~ the air throughput necessary for heating or cooling, whichever is greater.
6.12.5 (2/4/00)	**Combustible Material Adjacent to Cooking Top.** Any portion of combustible material adjacent to a cooking top section warming closet, and so on, shall be protected as specified in 6.12.2 for a distance of at least 2 ft (0.6 m ~~0.9 m~~) above the surface of the cooking top.
Table 7.4.1 (2/4/00)	See Figure 2: 16 TAC §9.313.
7.10.2(c) (2/4/00)	(2) Vent connectors shall not be covered with insulation. Exception: Listed insulated vent connectors shall be installed according to the terms of their listing.
Table 7.10.2(d) and 7.10.2(e) (2/4/00)	Delete the asterisk from Column Heading: "Minimum Thickness (in.)*"
Table 9.32 title (2/4/00)	**Polyethylene Plastic Pipe Sizing Between First Stage and Second Stage Regulator: Maximum undiluted propane capacities listed are based on 10 psi first stage setting and 1 psi pressure drop. Capacities in 1000 Btu/hr**
11.1.1 (both)	~~ANSI Publication. American National Standards Institute, Inc., 11 West 42nd Street, 13th floor, New York, NY 10036.~~ ~~ANSI A21.52, Standard for Ductile-Iron Pipe, Centrifugally Cast, in Metal Molds or Sand-Lined Molds, for Gas, 1991.~~
11.1.4 (both)	~~AWWA Publication. American Water Works Association (Utilities), 6666 W. Quincy Avenue, Denver, CO 80235.~~ ~~ANSI/AWWA C111/A21.11 1990, Rubber Gasket Joints for Ductile Iron Pressure Pipe and Fittings.~~

11.1 (both)	After deleting 11.1.1 and 11.1.4 as shown above, renumber the remaining paragraphs: 11.1.2, ASME Publications, becomes 11.1.1; 11.1.3, ASTM Publications, becomes 11.1.2; 11.1.5, CSA International Publications, becomes 11.1.3; 11.1.6, MSS Publications, becomes 11.1.4; 11.1.7, NFPA Publications, becomes 11.1.5; and 11.1.8, U.S. Government Publication, becomes 11.1.6.
11.1.5 (2/4/00)	NFPA 211, *Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances,* 2000 ~~1996~~ edition.
A.1.7 (2/4/00)	**Approved.** The American Gas Association and the National Fire Protection Association do not ...
A.2.6.8(a) (2/4/00)	For welding and brazing specifications and procedures that can be used, see API 1104, *Standard for Welding Pipelines and Related Facilities*; AWS B2.1, *Standard for Welding Procedure and Performance Qualification*; AWS B2.2, *Standard for Brazing Procedure and Performance Qualification*; or ASME *Boiler and Pressure Vessel Code*, Section IX.
A.4.3 (2/4/00)	The processes of purging ~~voiding~~ a gas pipeline of fuel gas and ...
A.5.1.1 (2/4/00)	The American Gas Association, American National Standards Institute and the National Fire Protection Association ~~and the American National Standards Institute~~ do not approve, inspect, or certify any installations, procedures, equipment, or materials. In determining acceptability of installations or procedures, the authority having jurisdiction can base acceptance on compliance with AGA, ANSI or NFPA ~~ANSI~~, or ...
A.5.3.3(b)2 (2/4/00)	Figure A.5.3.3(b)2 Equipment located in confined spaces; single combustion air opening, all air from the outdoors. *[see 5.3.3(b).]*
A-6.2.6 (2/4/00)	Revise Section heading to A.6.2.6 (deleting the hyphen and substituting a period).
C.3 (2/4/00)	**Use of Capacity Tables.** To determine the size of each section of gas piping in a system within the range of the capacity tables, proceed as follows. (Also see sample calculation in Section C.4 ~~C.2~~.)
Table C.3 *(continued)* (2/4/00)	Revise footnote number from 7 to 6: L = equivalent length in feet of Schedule 40 (standard weight) straight pipe [6] ~~[7]~~
C.3 (2/4/00)	In Use of Capacity Tables, Low pressure, after equation, Q =, add the following equation: $=2313D^{2.623}\left(\frac{\Delta H}{Cr \cdot L}\right)^{0.541}$
C.3 (2/4/00)	NOTE: For Y values for natural gas, refer to Manual for Determination of Supercompressibility Factors for Natural Gas, available from American Gas Association, 400 N. Capitol St., NW, Washington, DC 20001 ~~1515 Wilson Boulevard, Arlington, Virginia 22209~~. For values for liquefied petroleum gases, refer to ...
G.1.3 (2/4/00)	Solution Table 10.1 is used in the case of an all Type B vent system. However, since there is no entry in Table 10.1 ~~10.2~~ for a height of 12 ft, interpolation must be used. Read down ...
G.2.2 (2/4/00)	The 100,000 Btu/hr furnace in this example falls within this range, so a 4-in. connector is adequate. Since the furnace vent connector horizontal length of 6 ft is less than the maximum value listed in 10-2.2 ~~10.6~~, the venting table values can be used without adjustment. If the furnace had an input rating of 80,000 Btu/hr, then a Type B vent connector [see Table 10.6 ~~10.7~~] would be needed in order to meet the minimum capacity limit.
G.2.3 (2/4/00)	Water Heater Vent Connector Diameter. Using Table 10.9, ~~10.7~~ Vent Connector Capacity, read down the ... Furnace Vent Connector Diameter. Using the Vent Connector Capacity portion of Table 10.9 ~~10.7~~, read down the ...
M.1.1 (2/4/00)	ANSI Publications. American National Standards Institute, Inc., 11 West 42nd Street, 13th floor, New York, NY 10036 ~~ANSI A21.52, Standard for Ductile Iron, Centrifugally Cast, in Metal Molds or Sand Lined Molds, for Gas, 1991~~
M.1.7 (2/4/00)	~~AWWA Publication. American Water Works Association (Utilities), 6666 W. Quincy Avenue, Denver, CO 80235.~~ ~~ANSI/AWWA C111/A21.11, Rubber Gasket Joints for Ductile Iron Pressure Pipe and Fittings, 1990.~~
M1.11	NFPA 211, Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, 2000 ~~1996~~ edition.

Figure 2: 16 TAC §9.313

Gas Utilization Equipment	Type of Venting System
Listed Category I equipment	Type B gas vent (7.6)
Listed equipment equipped with draft hood	Chimney (7.5) Single-wall metal pipe (7.7)
Equipment listed for use with Type B gas vent	Listed Chimney lining system for gas venting (7.5.1c)
	Special Gas Vent listed for this equipment (7.4.3)
Listed vented wall furnaces	Type B-W gas vent (7.6, 6.28)
Category II equipment Category III equipment Category IV equipment	As specified or furnished by manufacturers of listed equipment (7.4.2, 7.4.3)
Incinerators, outdoors	Single-wall metal pipe [7.7, 7.7.3(c)]
Incinerators, indoors Equipment that can be converted to use of solid fuel Unlisted combination gas and oil-burning equipment Combination gas- and solid-fuel-burning equipment Equipment listed for use with chimneys only Unlisted equipment	Chimney (7.5)
Listed combination gas and oil-burning equipment	Type L vent (7.6) or chimney (7.5)
Decorative appliance in vented fireplace	Chimney [6.6.2(2)]
Gas-fired toilets	Single-wall metal pipe (7.7, 6.26.3)
Direct vent equipment	See 7.2.5
Equipment with integral vent	See 7.2.6
Equipment in commercial and industrial installations	Chimney, ventilating hood, and exhaust system (7.3.5)

SUBCHAPTER E - ADOPTION BY REFERENCE OF NFPA 58 (LP-GAS CODE)

§9.401 Adoption by Reference of NFPA 58

(a) Except as modified in this subchapter, the Commission adopts by specific reference the provisions established by the National Fire Protection Association (NFPA) in its 2001 edition of the Liquefied Petroleum Gas Code (formerly titled Standard for the Storage and Handling of Liquefied Petroleum Gases), commonly referred to as NFPA 58 or Pamphlet 58, effective September 1, 2003. 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) The Commission also adopts by reference all other NFPA publications or portions of those publications referenced in NFPA 58, §13.1.1, which apply to LP-gas activities only. The adopted pamphlets referenced in NFPA 58 are:

(1) NFPA 10, Standard for Portable Fire Extinguishers, 1998 edition;

(2) NFPA 15, Standard for Water Spray Fixed Systems for Fire Protection, 1996 edition;

(3) NFPA 30, Flammable and Combustible Liquids Code, 2000 edition;

(4) NFPA 37, Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, 1998 edition;

(5) NFPA 50B, Standard for Liquefied Hydrogen Systems at Consumer Sites, 1999 edition;

(6) NFPA 51, Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes, 1997 edition;

(7) NFPA 51B, Standard for Fire Prevention in Use of Cutting and Welding Processes, 1999 edition;

(8) NFPA 54, National Fuel Gas Code, 1999 edition;

(9) NFPA 59, Utility LP-Gas Plant Code, 1999 edition;

(10) NFPA 61, Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Products Facilities, 1999 edition;

(11) NFPA 70, National Electrical Code, 1999 edition;

(12) NFPA 82, Standard on Incinerators and Waste and Linen Handling Systems and Equipment, 1999 edition;

(13) NFPA 86, Standard for Ovens and Furnaces, 1999 edition;

(14) NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 1998 edition;

(15) NFPA 101, Life Safety Code, 2000 edition;

(16) NFPA 220, Standard on Types of Building Construction, 1999 edition;

(17) NFPA 251, Standard Methods of Tests of Fire Endurance of Building Construction and Materials, 1999 edition;

(18) NFPA 302, Fire Protection Standard for Pleasure and Commercial Motor Craft, 1998 edition;

(19) NFPA 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities, 2000 edition;

(20) NFPA 505, Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operation, 1999 edition;

(21) NFPA 1192, Standard on Recreational Vehicles, 1999 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, §1.7, 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, §1.7.

(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, Additional Requirements, or Corrections) 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.

§9.403 Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes, Additional Requirements, or Corrections

(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, or with corrections listed in the Errata dated November 19, 2001, issued by NFPA to correct typographical or other errors in the published NFPA 58 pamphlet. According to NFPA, these errors may be corrected in future printings.

Figure: 16 TAC §9.403(a)

Affected NFPA 58 Section	Specific Action	Commission rule(s) To Be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
1.3	additional requirement	See Commission rule §9.114, Odorizing and Reports.
1.4.1	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.
1.4.2	not adopted	See Commission rules §9.101, Filings Required for Stationary LP-Gas Installations, and §9.102(c), Notice of Stationary LP-Gas Installations.
1.5	additional requirement	See Commission rules §§9.51, General Requirements for Training and Continuing Education, and 9.52, Training and Continuing Education Courses.
1.7.11	additional requirement	In addition to definition for "Authority Having Jurisdiction," see Commission rule §9.402(a), Clarification of Certain Terms Used in NFPA 58.
1.7.40	not adopted	The Commission does not adopt the definition of Low Emission Transfer.
2.2.1.4	additional requirement	See Commission rule §9.135, Unsafe or Unapproved Containers, Cylinders, or Piping.
2.2.2.2	additional requirement	See Commission rule §9.131, 200 PSIG Working Pressure Stationary Vessels.
2.2.6.1	additional requirement	See Commission rules §9.140 table 1, Uniform Protection Standards, and §9.141, Uniform Safety Requirements.
2.2.6.3	not adopted	See Commission rule §9.129, Manufacturer's Nameplate and Markings on ASME Containers.
2.2.6.4	with changes	A warning label shall be applied to all cylinders of 4.2 lb (1.9 kg) to 100 lb (45.4 kg) LP-Gas capacity or less and not filled on site. The label shall include information on the potential hazards of LP-Gas.
2.2.6.5	not adopted	See Commission rule §9.140 table, Uniform Protection Standards.
2.3.1.5	with changes	Cylinders with 4.2 lb (1.9 kg) ~~4 lb (1.8 kg)~~ through 40-lb (18-kg) propane capacity for vapor service shall comply with the following: (a) - (d) (No change.)
2.3.1.6	errata	~~Container appurtenances shall be maintained in operating condition.~~
2.3.2.3	additional requirement	See Commission rule §9.131, 200 PSIG Working Pressure Stationary Vessels.
2.3.3.2(a)(5)	with changes	Overfilling prevention devices shall be required on cylinders having 4.2 lb ~~4 lb~~ through 40 lb (1.9 ~~1.8~~ kg through 18 kg) propane capacity for vapor service. (See 2.3.1.5.)
Table 2.3.3.2(a)	with changes	Column 1 - Cylinders, 4.2-lb--100-lb (1.9-kg--45.4-kg) ~~2-lb to100-lb (0.9-kg to 45.4-kg)~~ Propane Capacity for Vapor Service Column 2 - Cylinders, 4.2-lb--100-lb (1.9-kg--45.4-kg) ~~2-lb to100-lb (0.9-kg to 45.4-kg)~~ Propane Capacity for Liquid Service Column 3 - Cylinders, 4.2-lb--100-lb (1.9-kg--45.4-kg) ~~2-lb to100-lb (0.9-kg to 45.4-kg)~~ Propane Capacity for Liquid and Vapor Service

2.3.3.2(b)(3) - 2.3.3.2(b)(4)	not adopted	See Commission rule §9.403(a), Exception 2.3.3.2(b)(2).
2.3.3.2(b)(1)	with changes	For ~~vapor withdrawal~~ all openings less than 1 ¼ inches in size, either of the following: 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, or b. A ~~An~~ pneumatically operated internal valve with an integral excess-flow valve or excess-flow protection, or c. A double back flow check filler valve.
2.3.3.2(b)(2)	with changes	(2) For all ~~liquid withdrawal~~ openings 1 1/4 inches or greater in size, any of the following: a. A ~~An~~ pneumatically operated internal valve with excess flow protection equipped for remote closure and automatic shutoff using thermal (fire) actuation where the thermal element is located within 5 ft (1.5 m) of the internal valve, **or a double back flow check filler valve** ~~b. Internal valves installed in containers equipped for remote closure and automatic shutoff~~ ~~using thermal (fire) actuation as described in 2.3.3.2(b)(2)(a) by July 1, 2003~~ b~~c~~. Containers equipped with a positive shutoff valve that is located as close to the container as is practical in combination with an excess flow valve and retrofitted by February 1, 2006 ~~July 1, 2003~~, with one of the following: 1. A ~~An~~ pneumatically operated internal valve with excess flow protection equipped for remote closure and automatic shutoff using thermal (fire) actuation 2. A ~~An~~ pneumatically operated emergency shutoff valve equipped for remote closure and automatic shutoff using thermal (fire) actuation installed in the line downstream as close as practical to the existing positive shutoff valve. 3. A double back flow check filler valve 4. A positive shutoff valve in combination with a back flow check valve 112 *Exception 1: Any vapor or liquid withdrawal opening 1 1/4 inch or larger with piping attached that exclusively provides service to stationary appliances or equipment. In lieu of an internal valve or emergency shutoff valve, this opening may be equipped with an excess flow valve and a shutoff valve installed as close as practical to the container.*
2.4.4	additional requirement	See Commission rule §9.311, Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support.
2.4.4.3	additional requirement	See Commission rule §9.312(b), Certification Requirements for Joining Methods.
2.4.6	additional requirement	See Commission rule §9.143(b) and (g), Bulkhead, Internal Valve, and ESV Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
2.4.6.3(b)	errata	(b) Hose assemblies, after the application of connections, shall have a design capability of not less than 700 psig (4.8 MPag). If a test is performed, such assemblies shall be leak tested at ~~120 percent of the~~ pressures between the operating pressure and 120 percent of the maximum working pressure {350 psig (24 MPag) minimum} of the hose.

2.5.1.3(a)	errata	Materials equivalent to 2.5.1.3(a)(1) through 2.5.1.3(a)(5) in melting point, corrosion resistance, toughness and strength.
2.6.2.1	additional requirement	See Commission rule §9.307, Identification of Converted Appliances.
3.2.2.1		LP-Gas containers shall be located outside of buildings. *Exception No. 1: (no change.)* *Exception No. 2: Containers from 1 gal (3.785 l) to ~~of less than~~ 125 gal (0.5 m^3) water capacity for the purposes of being filled in buildings or structures complying with Chapter 7.* [remainder: no changes]
3.2.2.2	additional requirement	In addition to Table 1, see Commission rule §9.142, LP-Gas Container Storage and Installation Requirements.
3.2.2.2	errata	Revise paragraph 3.2.2.2 Exception No. 4 to read: *Exception No. 4: The separation distances specified in Table 3.2.2.2 between containers and of buildings of other than wood-frame construction devoted exclusively to gas manufacturing and distribution operations shall be reduced to 10 ft (3m).*
3.2.2.2(g)	Errata	Revise paragraph 3.2.2.2(g) Exception No. 2 to read: *Exception No. 2: Where the distance from a 2001 to 30,000 gal water capacity container to a building is in accordance with 3.11.2 and 3.11.4.*
Table 3.2.2.2 Note (a)	Errata	Revise Table 3.2.2.2 Note (a) to read: See 3.2.2.2 Exception No. 3.
Table 3.2.2.2 Note (e)	Errata	Revise Table 3.2.2.2 Note (e) to read: See 3.2.2.2(b), (c) and (e)
Table 3.2.2.2	Errata	(a) Add a superscript "f" after 25 in the column Aboveground Containers (ft), (b) Add a new Note "f" to read: see 3.2.2.2 Exception No. 2.
3.2.2.3	additional requirement	See Commission rule §9.101(c)(2), Filings Required for Stationary LP-gas Installations.
3.2.2.8	additional requirement	See Commission rule §9.141(f), Uniform Safety Requirements.
3.2.4.2	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
3.2.4.4	additional requirement	See Commission rule §9.141(a), Uniform Safety Requirements.
3.2.5	with changes	Cylinders shall be installed only aboveground, and shall be set upon a firm foundation of concrete, masonry, or metal or be otherwise firmly secured. Flexibility shall be provided in the connecting piping. The requirements of 3.2.17 shall apply.
3.2.9.1	additional requirement	See Commission rule §9.140, Uniform Protection Standards.

3.2.9.2(d)	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
3.2.10.2(j)	errata	~~The location of the container shall have fixed stairs or another safe method to reach it.~~
3.2.12.1	with changes	A two-stage regulator system, an integral two-stage regulator, or a two-psi regulator system shall be required on all fixed piping systems that serve ½-psig (3.4-kPag) appliance systems [normally operated at 11 in. w.c. (2.7 kPag) pressure]. The regulators utilized in these systems shall meet the requirements of 2.5.7. This requirement includes fixed piping systems for appliances on RVs (recreational vehicles), mobile home installations, manufactured home installations, catering vehicles, and food service vehicle installations. Single-stage regulators shall not be installed in fixed piping systems after February 1, 2001 ~~June 30,1997~~. **Single-stage regulators in good working order installed prior to February 1, 2001, may remain in service.**
3.2.17	additional requirement	See Commission rule §9.143, Bulkhead, Internal Valve, and ESV Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
3.2.18.1	with changes	All of the following shall be required for internal valves in liquid or vapor service installed on containers over 4000-gal(15.2-m^3) water capacity by July 1, 2003.
3.2.18.2	with changes	Automatic shutdown of internal valves in liquid or vapor service shall be provided using thermal (fire) actuation. The thermal element shall be within 5 ft (1.5 m) of the internal valve.
3.2.18.3	with changes	At least one remote shutdown station for internal valves in liquid or vapor service shall be installed not less than 25 ft (7.6 m) or more than 100 ft (30 m) from the liquid transfer point.
3.2.19.1	not adopted	See Commission rule §9.143, Bulkhead, Internal Valve, and ESV Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
3.2.19.2	not adopted	See Commission rule §9.143, Bulkhead, Internal Valve, and ESV Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
3.2.19.3	not adopted	See Commission rule §9.143, Bulkhead, Internal Valve, and ESV Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
3.2.19.6	not adopted	See Commission rule §9.143, Bulkhead, Internal Valve, and ESV Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.
3.2.24	with changes	All metallic equipment and components that are buried or mounded shall be coated or protected and maintained to minimize corrosion. ~~Corrosion protection of all other materials shall be in accordance with accepted engineering practice.~~
3.3.3.6	not adopted	For containers at Bulk Plants and Industrial Plants refer to 2.3.3.2.
3.3.6.1	not adopted	See Commission rule §9.140, Uniform Protection Standards (fencing and guardrailing requirements).

3.4.2.1	with changes	Cylinders shall be in accordance with the following requirements: (a) - (d) (no change.) (e) Cylinders with propane capacities greater than 4.2 lb (1.9 kg) ~~2 lb (0.9 kg)~~ shall be equipped as provided in Table 2.3.3.2(a), and an excess-flow valve shall be provided for vapor service. (f) (no change.) (g) Cylinders having water capacities greater than 4.2 lb (1.9 kg) ~~2.7 lb (1.2 kg)~~ and connected for use shall stand on a firm and substantially level surface. If necessary, they shall be secured in an upright position. (h) (no change.)
3.4.2.4	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
3.4.2.7	with changes	Transportation (movement) of cylinders having water capacities greater than 4.2 lb (1.9 kg) ~~2.7 lb (1.2 kg)~~ within a building shall be restricted to movement directly associated with the uses covered by this section and in accordance with the following: (a) Valve outlets on cylinders having water capacities greater than 4.2 lb (1.9 kg) ~~2.7 lb (1.2 kg)~~ shall be tightly plugged, capped, or sealed with a listed quick-closing coupling or a listed quick-connect coupling. (b) (no change.)
3.4.4.1(b)	with changes	Cylinders having a water capacity greater than 4.2 lb (1.9 kg) ~~2.7 lb (1.2 kg)~~ shall not be left unattended.
3.4.8.3	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
3.4.8.4	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
3.4.9.2	with changes	Cylinders having water capacities greater than 4.2 lb (1.9 kg) ~~2.7 lb (1 kg) [nominal 1 lb (0.5 kg)]~~ LP-Gas capacity shall not be located on balconies above the first floor that are attached to a multiple family dwelling of three or more living units located one above the other.
3.7.2.2	with changes	Fixed electrical equipment and wiring installed within classified areas specified in Table 3.7.2.2 shall comply with Table 3.7.2.2 and shall be installed in accordance with NFPA 70, National Electrical Code. The provision shall apply to vehicle fuel operations. (See Figure 3.7.2.2.) *Exception: This provision shall not apply to fixed electrical equipment at residential ~~or commercial~~ installations of LP-Gas systems or to systems covered by Section 3.8.*
3.8.2.8(e)	with changes	The piping system shall be ~~designed,~~ installed, supported, and secured in such a manner to minimize the possibility of damage due to vibration, strains, or wear, and to preclude any loosening while in transit.
3.9.3.8	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
3.9.3.10	additional requirements	See Commission rule §9.140, Table 1 (relating to uniform protection standards).

3.11.3	with changes	The following provisions shall be required for ASME containers of greater than 4000 gal ~~2001 gal~~ through 30,000 gals.(15.2m^3 ~~7.6m3~~ through 114m^3) water capacity referenced in Section 3.11.
3.11.3.1	with changes	All liquid ~~withdrawal~~ openings and all vapor ~~withdrawal~~ openings that are 1 ¼ in. (3.2 cm) or larger shall meet the requirements of 2.3.3.2(b)(2) ~~be equipped with an internal valve with an integral excess flow valve or excess flow protection~~. The ~~internal~~ valves shall remain closed except during periods of operation. As required, the ~~internal~~ valves shall be equipped for remote closure and automatic shutoff through thermal (fire) actuation.
3.11.3.3	with changes	All liquid and vapor ~~inlet~~ openings of less than 1 ¼ inch shall be equipped in accordance with 2.3.3.2(b)(1) ~~3.11.3(a) and 3.11.3(b) or shall be equipped with a backflow check valve and a positive manual shutoff valve installed as close as practical to the backflow check valve~~.
3.11.4.3(c)	additional requirements	See Commission rule §9.140, Table 1 (relating to uniform protection standards).
3.11.5	not adopted	No applicable Commission language.
4.2.1.1	with changes	~~Transfer operations shall be conducted by qualified personnel meeting the provisions of Section 1-5.~~ At least one qualified person shall remain in attendance at the transfer operation from the time connections are made until the transfer is completed, shutoff valves are closed, and lines are disconnected.
4.2.1.2	not adopted	See Commission rules in Chapter 9, Subchapter A.
4.2.3.8	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
4.2.3.8(i)	errata	Provision for anchorage and breakaway ~~breaking~~ shall be provided on the cargo tank vehicle side for transfer from a railroad tank car directly into a cargo tank vehicle. (See A.3.2.19.6)
Tables 4.4.2.2(a) and (b)	errata	Revise the note to tables 4.4.2.2(a) and (b) to read: See 4.4.3.3(a)
4.4.3.1	additional requirement	See Commission rule §9.136, Filling of DOT Containers.

4.4.3.2	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 220-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 tank containers complying with DOT specifications MC-330, MC-331, or DOT 51 (3~~4~~) ASME and API-ASME containers complying with 2.2.1.3 or 2.2.2.2
5.2.1.1	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
5.3.1	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
5.4.2.2	not adopted	See Commission rule §9.140(d), Uniform Protection Standards.
5.4.2.1	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
5.4.3	not adopted	See Commission rule §9.27, Application for an Exception to a Safety Rule.
Table 6.2.2.7	errata	In table 6.2.2.7 change the heading of the first column from “lb w.c.” to “lb”.
6.3.6	with changes	Painting and Marking Liquid Cargo Vehicles. Painting of cargo vehicles shall comply with ~~*Code of Federal Regulations*, Title 49, Part 195~~ 49 Code of Federal Regulations, Section 178.337-1. Placarding and marking shall comply with ~~CFR 49~~ 49 CFR, Section 172, Subparts D and F, respectively.
6.5.2.1	with changes	*Exception (b): Valves and fittings shall be protected by a method ~~approved by the authority having jurisdiction~~ to minimize the possibility of damage.*
8.1.3	not adopted	See Commission rules §§9.51, General Requirements for Training and Continuing Education, and 9.52, Training and Continuing Education Courses.
8.2.2.1(e)(1)	errata	250 psig (1.7 MPag) or 312.5 psig (2.2 MPag) where required if constructed prior to April 1, 2001.
8.2.3(l)	with changes	Where an overfilling prevention device is installed on an engine fuel container, venting of gas through a fixed maximum liquid level gauge shall not be required provided: 1. The OPD is verified by the owner of the vehicle to be working properly; 2. The verification of the valve is documented yearly and clearly marked on the container in a visible location; and 3. The OPD is replaced every two years, documentation is kept by the owner of the vehicle, and the container is marked in a visible location verifying its replacement.
8.2.6.6	with changes	Fuel containers shall be securely mounted to prevent jarring loose and slipping or rotating, and the fastenings shall be designed and constructed to with stand without permanent visible deformation static loading in any direction equal to four times the weight of the container filled with fuel. This shall not prohibit the use of specific mounting brackets designed and manufactured by a container manufacturer, original vehicle manufacturer, or the authorized representative of either. Each specific mounting bracket shall be marked in a visible location, to indicate the manufacturer of the bracket.

8.2.8.1	with changes	The piping system shall be ~~designed~~, installed, supported, and secured in such a manner to minimize damage due to expansion, contraction, vibration, strains, and wear.
8.2.10	with changes	Each over-the-road general-purpose vehicle powered by LP-Gas shall be identified with a weather-resistant diamond-shaped label located on an exterior vertical or near vertical surface on the lower right rear of the vehicle (on the truck lid of a vehicle so equipped, but not on the bumper of any vehicle) inboard from any other markings. The label shall be approximately 4 3/4 in. (120 mm) long by 3 1/4 in (83 mm) high. The marking shall consist of a border and the word PROPANE [1 in. (25 mm) minimum height centered in the diamond] in silver or white reflective luminous material on a black <u>or Pantone 2945 C Royal Blue or equivalent background. (See Figure 8.2.10.)</u>
Chapter 10	not adopted	Commission authority does not extend to marine shipping and receiving activities.
13.1.2.8	errata	In paragraph 13.1.2.8 delete "ICC, Rules for Construction of Unifired Pressure Vessels"
Appendix A	additional requirement	See Commission rule §9.137, Inspection of Cylinders at Each Filling, and CGA Publication C-6 or C-6.3 for further information regarding cylinder inspection.
A.3.2.12.8	errata	Revise paragraph A.3.2.12.8 to read: A.3.2.12.8 Two-psi regulator systems operate with 2 psi (13.8 kPa) downstream of the 2-psi service regulators to the line pressure regulator, which reduces the pressure to anappropriate inches-of-water-column pressure.
A.3.10.2.2	errata	In paragraph A.3.20.2.2 substitute "exposures" for expenses in (5) and substitute "designated" for "designed" in (6).
A.5.5	errata	Revise paragraph A.5.5 to read: See 3.10.2.5
F.5.2.3	errata	Revise paragraph F.5.2.3 to read: F.5.2.3 Percentage values, such as in the example in F.5.2.2, are rounded off to the next lower full percentage point, or to 80 percent in this example.
Figure I.1(a) Note 2	errata	In Figure I.1(a) Note 2, substitute "3.2.2.2(e)" for 3.2.2.2(d)
Figure I.1(b) Note 2	errata	In Figure I.1(b) Note 2 substitute "3.2.2.2(d)" for 3.2.2.2(c)
Figure I.1(b) Note 3	errata	In Figure I.1(b) Note 3 substitute "3.2.2.2 Exception No. 2 for "3.2.2.2(e)"
Figure I.1(c) Note 1 & 2	errata	In Figure I.1(c) Note 1 & 2 substitute "3.2.2.2 Exception No. 3" for "3.2.2.2(f)"

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§9.403 Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes, Additional Requirements, or Corrections (continued)

(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.

SUBCHAPTER F - ADOPTION BY REFERENCE OF NFPA 51 (STANDARD FOR THE DESIGN AND INSTALLATION OF OXYGEN-FUEL GAS SYSTEMS FOR WELDING, CUTTING, AND ALLIED PROCESSES)

§9.501 Adoption by Reference of NFPA 51

(a) 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 1997 edition of the Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes, commonly referred to as NFPA 51 or Pamphlet 51, effective October 1, 1997. 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) The Commission also adopts by reference all other NFPA publications or portions of those publications referenced in NFPA 51 which apply to LP-gas welding activities only. If LP-gas welding activities are to be performed by a licensee and those activities are covered in an NFPA publication referenced in NFPA 51, then the licensee shall perform those activities in compliance with that referenced document. The adopted referenced pamphlets are:

(1) NFPA 13, Standard for the Installation of Sprinkler Systems, 1999 edition;

(2) NFPA 15, Standard for Water Spray Fixed Systems for Fire Protection, 1996 edition;

(3) NFPA 50, Standard for Bulk Oxygen Systems at Consumer Sites, 1996 edition;

(4) NFPA 51B, Standard for Fire Prevention in Use of Cutting and Welding Processes, 1999 edition;

(5) NFPA 54, National Fuel Gas Code, 1999 edition;

(6) NFPA 58, Liquefied Petroleum Gas Code, 1998 edition;

(7) NFPA 70, National Electric Code, 1999 edition; and

(8) NFPA 220, Standard on Types of Building Construction, 1999 edition.

§9.502 Clarification and/or Exclusion of Definitions in NFPA 51

(a) Authority having jurisdiction. As pertains to LP-gas activities in Texas, the phrase "authority having jurisdiction" defined in NFPA 51, §1.2, 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 51, §1.2.

(b) Engineering. The Commission does not adopt language in any NFPA 51 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 51 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.

(c) The following definitions in NFPA 51, §1.2, shall be amended as follows and as illustrated in the table in §9.506(b) of this title (relating to Sections in NFPA 51 Adopted with Additional or Alternative Language):

(1) Fuel gas--The terms "acetylene," "hydrogen," and "natural gas" shall not apply. Therefore, fuel gas means "LP-gas, methylacetylene-propadiene, stabilized, and other liquefied and nonliquefied flammable gases that are stable because of their composition or because of the conditions of storage and utilization stipulated in this standard."

(2) Methylacetylene-propadiene, stabilized (MPS)--The subdivisions (a) through (d) shall not apply. Therefore, MPS means "A mixture of gases in the liquid phase and as defined in Chapter 113, §113.002(4) of the Texas Natural Resources Code."

(3) Pressure-relief device--The words "fluid" and "weight loaded, or rupture-disc" shall not apply. Therefore, pressure-relief device means "A device designed to open to prevent a rise of internal pressure in excess of a specified value due to exposure to emergency or abnormal conditions. It may be of the spring-loaded type."

(d) The Commission does not adopt the following definitions found in NFPA 51, §1.2:

(1) Acetylene, low pressure;

(2) Acetylene, medium pressure;

(3) Mobile acetylene trailer system;

(4) Oxygen manifold, high-pressure; and

(5) Oxygen manifold, low-pressure.

§9.503 Exclusion of Certain Sections and Chapters 6, 7, and 8 in NFPA 51

(a) The Commission does not adopt the following sections of NFPA 51 because they deal with fuels or activities unrelated to LP-gas welding activities:

(1) in Chapter 1, §1-3.1 and §1-5;

(2) in Chapter 2, §§2-3.5, 2-4, 2-4.1, and 2-4.2;

(3) in Chapter 3, §§3-2, 3-2.1, 3-2.2, 3-2.3, 3-2.4, 3-2.5, 3-3, 3-3.1, 3-3.2, 3-3.3, 3-3.4, 3-3.4.1, 3-3.4.2, and 3-3.5;

(4) in Chapter 4, §§4-1.2, 4-1.2.1, 4-1.2.2, 4-1.2.3, 4-1.3.3, and 4-2.4; and

(5) in Chapter 5, §§5-2.2, 5-2.2.1, and 5-4.7.

(b) The Commission does not adopt NFPA 51, Chapters 6, 7, and 8 because these chapters deal with other fuels or activities not related to LP-gas.

§9.506 Sections in NFPA 51 Adopted with Additional or Alternative Language

(a) The following sections of NFPA 51 are adopted with the specified additional or alternative language:

(1) In §1-1.1, subsection (c)(2) concerning calcium carbide is not adopted. Therefore, §1-1.1(c) as amended reads: "Storage, on the site of a welding and cutting system installation, of fuel gases to be used with such systems where more than one cylinder each of oxygen and fuel gas is stored in any single storage area. (This includes storage of more than one cylinder each in any single storage area even though all such stored cylinders may be intended for use in systems of the kind described in 1-1.5(a).)"

(2) In addition to the requirements of §1-1.5(a) and in the entry for 3-4.5.1 in §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes, Additional Requirements, or Corrections), the use of a single cylinder of oxygen and a single cylinder of fuel gas shall comply with the manufacturer's instructions and any applicable LP-Gas Safety Rules. This equipment shall be maintained in a safe operating condition.

(3) In §1-6 concerning cylinders and containers, the words "or oxygen" at the end of the section are not adopted. Therefore, §1-6 as amended reads: "Cylinders and Containers. The terms cylinder and container are used interchangeably in this standard and include any portable vessel used to supply a fuel gas."

(4) In §2-3.1 concerning fuel gas cylinder storage, the words "total gas capacity of 2500 cu ft (70 m^3) of acetylene or nonliquefied flammable gas or a" and both exceptions are not adopted. Therefore, §2-3.1 as amended reads: "Fuel gas cylinder storage inside of buildings having other occupancy, except those in actual use or attached ready for use, shall be limited to a total water capacity of 735 lb (334 kg) for LP-gas or methylacetylene-propadiene, stabilized, in any one area; and, if there is more than one such storage area within a building, they shall be

separated by a distance of at least 100 ft (30 m)." The "NOTE" is adopted without changes.

(5) In §2-3.3 concerning fuel gas storage, the references to the exception in 2-3.1, and 6-5.1.6 and 6-5.1.7 are not adopted. Therefore, §2-3.3 as amended reads: "Fuel gas storage in cylinders inside of buildings in quantities in excess of those permitted in 2-3.1 shall be in a separate room."

(6) In §2-3.4 concerning fuel gas cylinders, the references to 3-2.3 Exception, 3-3.4, and 7-2.2 are not adopted. Therefore, §2-3.4 as amended reads: "Fuel gas cylinders shall be permitted to be stored in unlimited quantities outside or in a separate building having no other occupancy except as provided in 3-1.4."

(7) In §3-1.2 concerning manifolding of cylinders, the gas capacity is changed to water capacity, and other applicable changes are made. The "NOTE" is not changed. The "Exception" is not adopted. Therefore, §3-1.2 as amended reads: "Fuel gas cylinders connected to one manifold inside a building shall be limited to a total water capacity of 735 lb (334 kg) for LP-gas or methylacetylene-propadiene, stabilized. More than one such manifold with connected cylinders shall be permitted to be located in the same room provided the manifolds are at least 50 ft (15 m) apart or are separated by a barrier of noncombustible material at least 5 ft (1.5 m) high having a fire-resistance rating of at least 1/2 hour."

(8) In §3-1.3, the reference to calcium carbide is not adopted. Therefore, §3-1.3 as amended reads: "Separate manifold buildings or rooms shall also be permitted to be used for the storage of cylinders containing fuel gases as provided for in Section 2-3. Such buildings or rooms shall have no open flames for heating or lighting and shall be well ventilated."

(9) In §4-1.1.2, a reference to another section not being adopted is deleted. Therefore, §4-1.1.2 as amended reads: "Piping shall be steel, brass, or copper pipe, or seamless copper, brass, or stainless steel tubing, except as provided in 4-1.3."

(10) In the title of §4-1.3, the reference to acetylene is deleted. Therefore, §4-1.3 as amended reads: "Piping for Methylacetylene-Propadiene, Stabilized."

(11) In the title of §4-2, the reference to another section not being adopted is deleted. Therefore, §4-2 as amended reads: "Piping Joints."

(12) In the title of §4-3, the reference to another section not being adopted is deleted. Therefore, §4-3 as amended reads: "Installation."

(13) In the title of §4-4, the reference to another section not being adopted is deleted. Therefore, §4-4 as amended reads: "Cleaning."

(14) In §4-4.1 concerning fittings and lengths of pipe, the last two sentences are not adopted. Therefore, §4-4.1 as amended reads: "Fittings and lengths of pipe shall be examined internally BEFORE ASSEMBLY and, if necessary, freed from scale or dirt."

(15) In §4-4.2 concerning piping, the reference to oxygen piping is not adopted. Therefore, §4-4.2 as amended reads: "Piping shall be thoroughly blown out after assembly to remove foreign materials. Air or inert gas shall be permitted to be used."

(16) In the title of §4-5, the reference to another section not being adopted is deleted. Therefore, §4-5 as amended reads: "Testing."

(17) In §4-5.1 concerning piping systems, the last two sentences are not adopted. Therefore, §4-5.1 as amended reads: "Piping systems shall be hydrostatically tested and proved gastight and leak free at one and one-half (1 1/2) times the maximum operating pressure, or tested in accordance with ASME B31.3, Chemical Plant and Petroleum Refinery Piping, and thoroughly purged of the test medium before being placed in service."

(18) In §5-3.3 concerning protective equipment, an exception has been added. Therefore, §5-3.3 as amended reads: "Listed or approved protective equipment (designated P_F) shall be installed in the fuel gas piping. Exception: In the event an approved or listed P_F device is not available to meet the industrial or commercial entity's application (e.g., fuel pressure exceeds pressure rating of P_F device), a back flow check valve and a pressure-relief device which are compatible with LP-gas shall be installed, with the pressure-relief device located downstream of the back-flow check valve. The relief valve shall be set at 110% of the maximum operating pressure of the LP-gas."

(19) In §5-3.8 concerning piping protective devices, the word "shall" is changed to "may." Therefore, §5-3.8 as amended reads: "Fuel gas for use with equipment not requiring oxygen may be withdrawn upstream of the piping protective devices."

(20) In §5-4.1 concerning shutoff valves, the reference to the oxygen station outlet valve is not adopted. Therefore, §5-4.1 as amended reads: "A listed or approved shutoff valve shall be installed at each outlet and located on the upstream side of other station outlet equipment except as provided in 5-4.2. The diagram symbol for such shutoff valve is V_F."

(21) In §5-4.2 concerning backflow check valves, the reference to the oxygen station outlet valve and the backflow check valve is not adopted. Therefore, §5-4.2 as amended reads: "A listed or approved backflow check valve shall be installed at each station outlet, including those on portable outlet headers, either upstream or downstream of the shutoff valve, V_F. The diagram symbol for such check valve is S_F."

(b) The following table, provided for informational purposes only, indicates the changes made to the amended NFPA 51 sections:

Figure: 16 TAC §9.506(b)

NFPA 51 Section	Text as Amended
1-1.1(c)	Storage, on the site of a welding and cutting system installation, of~~:~~ ~~(1)~~ fuel gases to be used with such systems where more than one cylinder each of oxygen and fuel gas are stored in any single storage area. (This includes storage of more than one cylinder each in any single storage area even though all such stored cylinders may be intended for use in systems of the kind described in 1-1.5(a).) ~~(2) Calcium carbide.)~~
1-2	Fuel gas. ~~Acetylene, hydrogen, natural gas,~~ LP-gas, methylacetylene-propadiene, stabilized, ~~(as defined in this standard),~~ and other liquefied and nonliquefied flammable gases that are stable because of their composition or because of the conditions of storage and utilization stipulated in this standard.
	Methylacetylene-propadiene, stabilized (MPS). A mixture of gases ~~that,~~ in the liquid phase~~, shall conform to the following:~~ ~~(a) Methylacetylene-propadiene (in combination, with a maximum ratio of 3.0 moles of methylacetylene per mole of propadiene in the initial liquid phase in a storage container) - 68 mole percent maximum;~~ ~~(b) Propane, butane, isobutane (in combination) - 24 mole percent minimum of which at least 1/3 (8 mole percent of total mixture) shall be butane or isobutane;~~ ~~(c) Propylene - 10 mole percent maximum;~~ ~~(d) Butadiene - 2 mole percent maximum~~.
	Pressure-relief device. A device designed to open to prevent a rise of internal ~~fluid~~ pressure in excess of a specified value due to exposure to emergency or abnormal conditions. It may be of the spring-loaded~~, weight loaded, or rupture disc~~ type.
1-6	Cylinders and Containers. The terms cylinder and container are used interchangeably in this standard and include any portable vessel used to supply a fuel gas~~, or oxygen~~.
2-3.1	Fuel gas cylinder storage inside of buildings having other occupancy, except those in actual use or attached ready for use, shall be limited to a ~~total gas capacity of 2500 cu ft (70m^3) of acetylene or nonliquefied flammable gas or a~~ total water capacity of 735 lb (334 kg) for LP-gas or methylacetylene-propadiene, stabilized, in any one area; and, if there is more than one such storage area within a building, they shall be separated by a distance of at least 100 ft (30 m).
2-3.3	Fuel gas storage in cylinders inside of buildings in quantities in excess of those permitted in 2-3.1 ~~and Exception No. 1 to 2-3.1~~ shall be in a separate room ~~as provided in 6-5.1.6 and 6-5.1.7~~.
2-3.4	Fuel gas cylinders shall be permitted to be stored in unlimited quantities outside or in a separate building having no other occupancy except as provided in 3-1.4~~, 3-2.3 Exception, 3-3.4, and 7-2.2~~.
3-1.2	Fuel gas cylinders connected to one manifold inside a building shall be limited to a total water ~~gas~~ capacity of ~~3000 cu ft (84 m^3) of acetylene or nonliquefied gas or a total water capacity of~~ 735 lb (334 kg) for LP-gas or methylacetylene-propadiene, stabilized. More than one such manifold with connected cylinders shall be permitted to be located in the same room provided the manifolds are at least 50 ft (15 m) apart or are separated by a barrier of noncombustible material at least 5 ft (1.5 m) high having a fire resistance rating of at least 1/2 hour. NOTE: A water capacity of 735 lb (334 kg) is equivalent to about 309 lb (140 kg) of propane, 368 lb (167 kg) of methylacetylene-propadiene, stabilized, or 375 lb (170 kg) of butane. ~~Exception: Fuel gas cylinders connected to one manifold having a total gas capacity exceeding 3000 cu ft (84 m^3) of acetylene or nonliquefied gas or a total water capacity of 735 lb (334 kg) for LP-Gas or methylacetylene-propadiene, stabilized, shall be located outdoors or in a separate building or room constructed in accordance with 6-5.1.6 and 6-5.1.7.~~
3-1.3	Separate manifold buildings or rooms shall also be permitted to be used for the storage of ~~drums of calcium carbide and~~ cylinders containing fuel gases as provided for in Section 2-3. Such buildings or rooms shall have no open flames for heating or lighting and shall be well ventilated.
4-1.1.2	Piping shall be steel, brass, or copper pipe, or seamless copper, brass, or stainless steel tubing, except as provided in ~~4-1.2 and~~ 4-1.3.
4-1.3	Piping for ~~Acetylene and~~ Methylacetylene-Propadiene, Stabilized.
4-2	Piping Joints ~~Also see 4-1.2.1 for oxygen piping~~.
4-3	Installation ~~Also see 4-1.2.1 for oxygen piping~~.
4-4	Cleaning ~~Also see 4-1.2.1 for oxygen piping and CGA Pamphlet G4.1, Equipment Cleaned for Oxygen Service~~.

4-4.1	Fittings and lengths of pipe shall be examined internally BEFORE ASSEMBLY and, if necessary, freed from scale or dirt. ~~Oxygen piping and fittings shall be washed out with a suitable solution that will effectively remove grease and dirt but will not react with oxygen. Hot water solutions of caustic soda or trisodium phosphate are effective cleaning agents for this purpose.~~
4-4.2	Piping shall be thoroughly blown out after assembly to remove foreign materials. ~~For oxygen piping, oil-free air or oil-free nitrogen shall be used. For other piping, air~~ Air or inert gas shall be permitted to be used.
4-5	Testing ~~Also see 4-1.2.1 for oxygen piping~~.
4-5.1	Piping systems shall be hydrostatically tested and proved gastight and leak free at one and one-half (1 1/2) times the maximum operating pressure, or tested in accordance with ASME B31.3, Chemical Plant and Petroleum Refinery Piping, and thoroughly purged of the test medium before being placed in service. ~~The material used for pressure-testing oxygen lines shall be oil-free and nonflammable. Material used externally for bubble-testing oxygen lines shall be oil-free and, if combustible, shall be applied as a dilute water solution that will not leave an objectionable film.~~
5-3.3	Listed or approved protective equipment (designated P_F) shall be installed in the fuel gas piping. Exception: In the event an approved or listed P_F device is not available to meet the consumer's application (e.g., fuel pressure exceeds pressure rating of P_F device), a back flow check valve and a pressure-relief device which are compatible with LP-gas shall be installed, with the pressure-relief device located downstream of the back flow check valve. The relief valve shall be set at 110% of the maximum operating pressure of the LP-gas.
5-3.8	Fuel gas for use with equipment not requiring oxygen may ~~shall~~ be withdrawn upstream of the piping protective devices.
5-4.1	A listed or approved shutoff valve shall be installed at each outlet and located on the upstream side of other station outlet equipment except as provided in 5-4.2. The diagram symbol for such shutoff valve is V_F ~~and V_θ~~.
5-4.2	A listed or approved backflow check valve shall be installed at each station outlet, including those on portable outlet headers, either upstream or downstream of the shutoff valve, V_F ~~or V_θ~~. The diagram symbol for such check valve is S_F ~~and S_θ~~.

§9.507 Container Installation Requirements

(a) In addition to the requirements in NFPA 51 as adopted or amended in this subchapter, containers supplying LP-gas for welding or welding applications shall comply with the following requirements:

(1) A maximum of five DOT cylinders with individual water capacities of less than 125 gallons and an aggregate water capacity of 600 gallons or less may be installed to manifolds adjacent to the exterior of a noncombustible building provided that they:

(A) are not installed or used within three feet of any building opening;

(B) are not installed or used within five feet of any external ignition source;

(C) are not refilled on site, but replaced on an exchange basis;

(D) are connected by flexible connectors of 42 inches or less in length between the piping and the cylinder;

(E) are provided with substantial masonry or noncombustible structure supports on a firm masonry foundation, excluding tiles or hollow brick which are prohibited; and

(F) are protected by guardposts which shall be installed to protect against vehicular traffic other than material handling equipment such a forklift used to exchange the cylinders. Guardposts shall be at least three-inch schedule 40 steel pipe, capped on top or otherwise protected to prevent the entrance of water or debris into

the guardpost, and anchored in concrete at least 18 inches below ground and rising at least 30 inches above the ground.

(2) DOT cylinders with individual water capacities of 125 gallons or more, or ASME containers of any size shall not be permitted to be closer to a building as described in subsection (a) of this section, but shall comply with the distance requirements in §9.142 of this title (relating to LP-Gas Container Storage and Installation Requirements) and may be filled on site.

(b) If necessary because of prevailing weather conditions or other conditions specific to the installation site, the containers shall be secured against displacement.

§9.508 LP-Gas Pressure Going into a Building

The amount of LP-gas pressure going into a building shall not exceed the amount required for the application being performed.

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, § 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.

SUBCHAPTER D - LICENSING

§113.081. License Requirement

(a) Unless otherwise stated in this chapter, no person may engage in any of the following activities unless that person has obtained a license from the commission authorizing that activity:

(1) container activities: the manufacture, assembly, repair, testing, sale, installation, or subframing of containers for use in this state, except that no license is 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 liquefied petroleum 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 liquefied petroleum gas as a fuel, except that no license shall be required for installation or connection of manufactured unvented appliances to LPG systems by means of LPG 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 liquefied petroleum gas in this state, except that no license shall be required to sell LPG 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 provisions of Subsection (a) of this section do not apply to a person who is not engaged in business as provided in Section 113.082 of this code. A person, except a political subdivision, is considered to be engaged in business as provided in Section 113.082 of this code if such person installs or services an LPG motor or mobile fuel system on a motor vehicle used in the transportation of the general public. The provisions of Subsections (a)(1) and (a)(2) of this section do not apply to intermodal containers or intermodal portable tanks constructed in accordance with United States Department of Transportation specifications.

(c) A mobile home park operator will not be deemed to be a person engaged in business as provided in Section 113.082 of this code if such mobile home park operator obtains no 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 the Texas Manufactured Housing Standards Act (Article 5221f, Vernon’s Texas Civil Statutes).

(d) The commission by rule may exempt from Section 113.082(D) of this code journeymen or master plumbers licensed by the Texas State Board of Plumbing Examiners.

(e) The commission by rule may exempt from Section 113.082(D) of this code a person licensed under the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon’s Texas Civil Statutes).

(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.

§113.082. Categories of LPG Activities; Fees

(a) A prospective licensee in LPG may apply to the commission for a license to engage in any one or more of the following categories of LPG activities:

(1) container manufacturers/fabricators: the manufacture, fabrication, assembly, repair, installation, subframing, testing, and sale of LPG containers, including LPG motor or mobile fuel containers and systems, and the repair and installation of transport and transfer systems;

(2) transport outfitters: the subframing, testing, and sale of LPG transport containers, the testing of LPG storage containers, the installation, testing, and sale of LPG motor or mobile fuel containers and systems, and the installation and repair of transport systems, and motor or mobile fuel systems;

(3) carriers: the transportation of LPG by transport, including the loading and unloading of LPG, and the installation and repair of transport systems;

(4) general installers and repairmen: the sale, service, and installation of containers, excluding motor fuel containers, and the service, installation, and repair of piping, certain appliances as defined by rule, excluding recreational vehicle appliances and LPG systems, excluding motor fuel and recreational vehicle systems;

(5) retail and wholesale dealers: the storage, sale, transportation, and distribution of LPG at retail and wholesale, and all other activities included in this section except the manufacture, fabrication, assembly, repair, subframing, and testing of LPG containers, and except the sale and installation of LPG motor or mobile fuel systems that have an engine with a rating of more than 25 horsepower;

(6) cylinder filling: the operation of a cylinder-filling facility, including cylinder filling, the sale of LPG in cylinders, and the replacement of a cylinder valve;

(7) service station: the operation of an LPG service station filling ASME containers designed for motor and mobile fuel;

(8) cylinder dealers: the transportation and sale of LPG in cylinders;

(9) service station and cylinder filling: any service station and cylinder activity set out in Subdivisions (6) and (7);

(10) service station and cylinder facilities: the operation of a cylinder-filling facility, including cylinder filling and the sale, transportation, installation, and connection of LPG in cylinders, the replacement of cylinder valves, and the operation of an LPG service station as set out in Subdivision (7);

(11) distribution system: the sale and distribution of LPG through mains or pipes and the installation and repair of LPG systems;

(12) engine fuel: the sale and installation of LPG motor or mobile fuel containers, and the sale and installation of LPG motor or mobile fuel systems;

(13) recreational vehicle installers and repairmen: the sale, service, and installation of recreational vehicle containers, and the installation, repair, and service of recreational vehicle appliances, piping, and LPG systems, including recreational vehicle motor or mobile fuel systems and containers;

(14) manufactured housing installers and repairmen: 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;

(15) testing laboratory: the testing of an LP-gas container, LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems for the purpose of determining the safety of the container or systems for LP-gas service, including the necessary installation, disconnection, reconnecting, testing, and repair of LPG motor fuel systems or mobile fuel systems, transfer systems, and transport systems involved in the testing of containers; or

(16) portable cylinder exchange: 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; the portable cylinders are not filled on site, and no other LP-gas activity requiring a license is conducted.

(b) The commission by rule shall establish reasonable application and original license fees and renewal fees for each type of license listed in this section.

§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 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.

(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 prepared and administered by the commission 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) Each individual who will be actively supervising those operations requiring any license under this chapter, other than a category "P" license, at any outlet or location, as designated by the commission, shall be required to provide good and sufficient proof through examination prepared and administered by the commission 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. Each category "E" licensee who provides portable cylinders to a category "P" licensee 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 category "P" licensee; and

(3) provide training approved by the commission regarding the contents of the manual to each individual who will be actively supervising operations requiring a category "P" license 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 prepared and administered by the commission 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 mail written notification of failure to qualify for LP-gas employee certification and the reasons therefor to the registrant. Written notice by the commission, a written

request for a hearing, and the public hearing itself shall be governed by Section 113.091 of this code.

(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 mailed 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 of this code.

(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 appropriate rule, shall require, in addition to examination requirements as set out in Subsections (b), (c), and (d) of this section:

(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, other continuing education programs, and periodic reexaminations.

(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 the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes); 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 in Subsection (c) of this section, the commission shall receive a nonrefundable fee for each examination or seminar registration.

(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 under Section 113.082(a)(5) 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 under Section 113.082(a)(5) and any other type of license specified by commission rule shall not be issued until the inspection under Subsection (a) of this section 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) Should an applicant fail to meet the requirements for original or renewal licensing set out in this chapter, the commission shall have written notification prepared promptly and mailed to the applicant. The notice shall specify the reason for the applicant's failure to qualify for license and advise 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 where a prior license has been revoked as provided for in Subsection (a) of Section 113.163 of this code.

(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 activities under Section 113.082 of this code 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 State Board 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 Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance under that article.

(b) A licensee shall not perform any licensed activity under Section 113.082 of this code unless the insurance coverage required by this chapter is in effect.

(c) Except as provided in Section 113.099 of this code, the types and amounts of insurance provided in Subsections (d) through (i) of this section are required while engaged in any of the activities set forth in Section 113.082 of this code or any activity incidental thereto.

(d) Each licensee under Section 113.082(a)(3), (5), (8), or (10) 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 shall 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) Each licensee, other than a category "P" licensee, 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 licensee under Section 113.082(a)(1), (2), (3), (5), or (15) must carry completed operations or products liability insurance, or both, in a reasonable amount, based on the type or types of 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 the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes).

(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 licensee or an applicant for a license under Section 113.082(a)(3), (5), (8), or (10) 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 licensee or an applicant for a license under Section 113.082(a)(1), (2), (3), (5), or (15) 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 - 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. Findings and Judgment

(a) The commission shall revoke, suspend, or refuse to renew a license or registration or shall reprimand a licensee or registrant if the commission finds that the licensee or registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule or standard promulgated and adopted under this chapter.

(b) The commission may place on probation a person whose license or registration is suspended. If a license or registration suspension is probated, the commission may require the person:

(1) to report regularly to the commission on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the commission; or

(3) to continue or review professional education until the person attains a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

§113.164. Appeal

Any party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule.

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 I - ALTERNATIVE FUELS RESEARCH AND EDUCATION

§113.241. Rules Regarding Research and Education

The commission may adopt all necessary rules relating to the purposes of this subchapter and activities regarding the use of LPG and other environmentally beneficial alternative fuels that are or have the potential to be effective in improving the quality of air in this state.

§113.242. Advisory Committees

The commission may appoint one or more advisory committees composed of members representing the LPG industry and other environmentally beneficial alternative fuels industries, consumers, and other interests to consult with and advise the commission on opportunities and methods to expand the use of LPG and other environmentally beneficial alternative fuels.

§113.243. Alternative Fuels Research and Education Fund

(a) The alternative fuels research and education fund is created in the state treasury.

(b) The fund consists of money from:

(1) fees charged under this subchapter;

(2) the penalties for the late payment of the fee charged under this subchapter;

(3) gifts, grants, or other assistance received by the commission from any source for the purposes of this subchapter;

(4) interest earned on amounts in the fund;

(5) amounts collected by the commission under an agreement with another state in accordance with Section 113.246(e);

(6) assessments, rebates on assessments, and other money collected by the commission under the Propane Education and Research Act of 1996 (15 U.S.C. Section 6401 et seq.) or other applicable federal law; and

(7) fees, royalties, or other things of value received from the items described by Subsections (f)(1)(A)-(D).

(c) The fund may be used only by the commission to pay for activities relating to the specific fuel from which the fee, royalty, or other thing of value was derived or the specific fuel, if any, for which the gift, grant, or other assistance is

given, including direct and indirect costs relating to:

(1) researching all possible uses of LPG and other environmentally beneficial alternative fuels to enhance air quality;

(2) researching, developing, and implementing marketing, advertising, and informational programs relating to alternative fuels to make alternative fuels more understandable and readily available to consumers;

(3) developing and implementing conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of alternative fuels;

(4) developing a public information plan that will provide advisory services relating to alternative fuels to consumers;

(5) developing voluntary participation plans to promote the use of alternative fuels by federal, state, and local agencies;

(6) implementing consumer incentive or rebate programs developed pursuant to Section 113.2435 of this subchapter;

(7) other functions the commission determines are necessary to add a program established by the commission for the purpose of promoting the use of LPG or other environmentally beneficial alternative fuels; and

(8) the administrative costs incurred by the commission under this subchapter.

(d) If a specific fee, royalty, gift, grant, other thing of value, or other assistance is designated for or collected from discrete components of the alternative fuels industry, the fee, royalty, gift, grant, other thing of value, or other assistance shall be deposited in a separate account in the fund.

(e) The commission may apply for, request, solicit, contract for, receive, and accept gifts, grants, and other assistance from any source for the purposes of this subchapter. Money received under this subsection shall be deposited in a separate account in the fund as provided in Subsection (d) of this section.

(f) The commission may:

(1) apply for, register, secure, hold, and protect under the laws of a state, the United States, or a foreign country a patent, copyright, trademark, or other evidence of protection or exclusivity issued for an idea, publication, or other original innovation fixed in a tangible medium, including:

(A) a logo;

(B) a service mark;

(C) a study;

(D) an engineering, architectural, or graphic design;

(E) a manual;

(F) automated systems software;

(G) an audiovisual work; or

(H) a sound recording;

(2) enter into a license agreement with a third party in return for a fee, royalty, or other thing of value; and

(3) waive or reduce the amount of a fee, royalty, or other thing of value to be assessed if the commission determines that the waiver will:

(A) further the goals and missions of the commission's division responsible for alternative fuels research and education; and

(B) result in a net benefit to the state.

(g) Money received under Subsection (f) shall be deposited in a separate account in the fund as provided by Subsection (d), except that any money received by the commission from the items described by Subsections (f)(1)(E)-(H) shall be deposited in the general revenue fund.

§113.2435. Consumer Incentive or Rebate Programs

(a) The commission may establish consumer rebate programs for purchasers of appliances and equipment fueled by LPG or other environmentally beneficial alternative fuels for the purpose of achieving energy conservation and efficiency and improving the quality of air in this state.

(b) The commission may adopt rules necessary to establish a program under this section.

(c) Rules adopted and promulgated by the commission under this section shall specify the following:

(1) rebate levels for various types of equipment such that the rebates achieve an amount of public good comparable to the rebate amount;

(2) a condition that the recipient agree to practice environmentally sound operating principles;

(3) a condition that the rebate recipient agree to not modify the equipment for a specified number of years as set by the commission;

(4) any other conditions or restrictions determined by the commission that would help ensure that either of the desired goals of achieving energy conservation and efficiency or improving air quality in this state is furthered;

(5) a limitation on the proportion of the fund usable for the rebate program that limits the proportion usable to not more than 50 percent of the funds available; and

(6) that the name or seal of the commission shall not be used on any advertising that promotes the propane water heater rebate program.

§113.244. Fee on Delivery of LPG

(a) A fee is imposed on odorized LPG delivered into any means of conveyance to be sold and placed into commerce. Except as provided by Subsection (e), the fee is in an amount determined as follows:

(1) $7.50 for each delivery into a cargo tank having a capacity of less than 1,500 gallons;

(2) $9 for each delivery into a cargo tank having a capacity of 1,500 gallons or more but less than 1,800 gallons;

(3) $10 for each delivery into a cargo tank having a capacity of 1,800 gallons or more but less than 2,000 gallons;

(4) $12.50 for each delivery into a cargo tank having a capacity of 2,000 gallons or more but less than 2,500 gallons;

(5) $13.50 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 2,700 gallons;

(6) $25 for each delivery into a cargo tank having a capacity of 2,700 gallons or more but less than 5,000 gallons;

(7) $37.50 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons;

(8) $50 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 12,000 gallons; and

(9) $25 for each increment of 5,000 gallons or any part of 5,000 gallons delivered into a cargo tank having a capacity of 12,000 gallons or more.

(b) The owner of LPG at the time of odorization or at the time of import of odorized LPG shall pay the fee based on the net amount of odorized LPG sold and placed into commerce. The fee shall be collected and remitted to the commission as provided by Section 113.245 by the person who odorizes the LPG or imports odorized LPG.

(c) “Time of import” means the time of entry into this state from another state or from outside the United States.

(d) The fee does not apply to a delivery of odorized LPG destined for export from the United States or this state if the LPG is in continuous movement to a destination outside the United States or this state. As to LPG exported from this state, and notwithstanding any other provision of this chapter, a delivery fee may be levied and collected under this section only if required to be levied and collected by implementation of the Propane Education and Research Act of 1996 (15 U.S.C. Section 6401 et seq.).

(e) If the commission is party to an agreement with another state’s propane education and research program under Section 113.246(c), the fee on LPG destined for export to that state and in continuous movement to a destination in that

state shall be assessed at the rate in effect in that state.

(f) The commission may transfer fees collected under Subsection (e) to the agency or organization in the other state that is party to the commission's agreement with that state.

§113.245. Report and Remission of Fees

(a) Each person responsible for collecting and remitting a fee on a delivery of LPG shall, on or before the 25th day of the month following the end of each calendar month, file a report with the commission and remit the amount of fees required to be collected or paid during the preceding month.

(b) Each person responsible for collecting and remitting a fee on a delivery of LPG or the person's representative shall prepare the report required under Subsection (a) of this section on a form provided or approved by the commission.

§113.246. Rules Regarding Fees; Agreements With Other States

(a) The commission shall adopt rules necessary for the administration, collection, reporting, and payment of the fees payable or collected under this subchapter and the Propane Education and Research Act of 1996 (15 U.S.C. Section 6401 et seq.) or other applicable federal law.

(b) The rebate program provided in Section 113.2435 shall be funded by 50 percent of the total delivery fees collected under Section 113.244. Administrative costs for the Alternative Fuels Research and Education Division program may not exceed 25 percent of the total delivery fees collected. The remainder of the total delivery fees collected may be expended at the discretion of the commission.

(c) The commission may enter into an agreement with an agency of or an organization in another state and with the national Propane Education and Research Council to coordinate the administration, collection, reporting, and payment of the fees payable or collected under the Propane Education and Research Act of 1996 (15 U.S.C. Section 6401 et seq.) or other applicable federal law.

(d) The commission may enter into an agreement with an agency of or an organization in another state to coordinate the administration, collection, reporting, and payment of the fees payable or collected under this subchapter and the other state's propane education and research program created by that state's law or rule.

(e) An agreement executed under Subsection (c) or (d) may include reporting, auditing, collecting, apportioning, and remitting fees and assessments payable or collected under this subchapter, the Propane Education and Research Act of 1996 (15 U.S.C. Section 6401 et seq.) or other applicable federal law, and the other state's propane education and research program. The commission may adopt rules necessary to implement the agreements authorized by this section.

(f) None of the funds payable or collected under or by the authority of the Propane Education and Research Act of 1996 (15 U.S.C. Section 6401 et seq.) may be spent on the promotion or marketing of propane for use in on-the-road vehicles.

§113.247. Penalties Related to Report or Fees

(a) A person who fails to file a report as provided by this subchapter or who possesses a fee collected or payable under this subchapter and who fails to remit the fee to the commission at the time and in the manner required by this subchapter and rules of the commission shall pay a penalty of five percent of the amount of the fee due and payable. If the person fails to file the report or pay the fee before the 30th day after the date on which the fee or report is due, the person shall pay a penalty of an additional five percent of the amount of the fee due and payable.

(b) The commission may add a penalty of 75 percent of the amount of the fee or penalty due if failure to file the report or pay the fee when it comes due is attributable to fraud or an intent to evade the application of this section or a rule made under this subchapter.

§113.248. Civil Penalty

A person forfeits to the state a civil penalty of not less than $25 nor more than $200 if the person:

(1) fails or refuses to comply with or violates this subchapter; or

(2) fails or refuses to comply with or violates a commission rule for administering or enforcing this subchapter.

§113.249. Attorney General

The attorney general, at the request of the commission, may sue in a court of competent jurisdiction to collect any fee or penalty due under this subchapter.

§113.250. Criminal Penalty

(a) A person commits an offense if the person makes and delivers to the commission a report required under this subchapter to be made and delivered to the commission, if the report contains false information. An offense under this subsection is a felony of the third degree.

(b) The court may not fine a corporation or association under Section 12.51(c), Penal Code, unless the amount of the fine under that subsection is greater than the amount that could be fixed by the court under Section 12.51(b), Penal Code.

(c) In addition to a sentence imposed on a corporation, the court shall give notice of the conviction to the attorney general as required by Article 17A.09, Code of Criminal Procedure.

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 improper operation of an LPG system that the person installed or serviced in a residential, commercial, or public building or in a motor vehicle if:

(1) the person was licensed to perform the installation or service;

(2) the 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 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 pressure 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 pressure 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 pressure 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 pressure test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the National Fire Protection Association 54, National Fuel Gas Code.

(b) The pressure test must be conducted in accordance with National Fire Protection Association 54.

(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 provide written notice to the commission specifying the date and the result of each pressure test or other inspection of the LP-gas piping system.

(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 shall maintain a copy of the notice provided under Subsection (a) until at least the first anniversary of the date the commission received the notice.

§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.