

1 SUBCHAPTER A. GENERAL REQUIREMENTS.

2 §9.1. Application of Rules, Severability, and Retroactivity.

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

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

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

13 (3) Subchapter C, Vehicles [~~and Vehicle Dispensers~~], applies to transports and bobtails  
14 that deliver LP-gas, and school buses and other vehicles that are powered by LP-gas.

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

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

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

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

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

29 (e) As stated in Texas Natural Resources Code, Chapter 113, any LP-gas container with a water  
30 capacity of one gallon or less, or any LP-gas piping system, or appliance attached or connected to such a  
31 container is exempt from the *LP-Gas Safety Rules*, including any adopted NFPA pamphlets. For the  
32 purpose of consistency, the figure of 4.20 lb is used to determine the weight of one gallon of LP-gas. The  
33 omission of a specific NFPA 58 pamphlet or any other NFPA rule containing any such applicable  
34 language from Table 1 of §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference,

1 and Adopted With Changes or ~~[;]~~ Additional Requirements~~[, or Corrections])~~ is inadvertent and shall not  
2 be read or understood as requiring or allowing any such size of LP-gas container to comply with the  
3 adopted LP-gas safety rule requirements.

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

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

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

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

10 (g) Vehicles and fuel supply containers excluded from the requirements of this chapter pursuant  
11 to subsection (f) of this section shall comply with the requirements of §9.203 of this title ( relating ~~[;]~~ to  
12 School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle Installations and  
13 Inspections), and the Commission's exception to NFPA 58, Chapter 11, [~~§11.4.1.5~~] in Table 1 in §9.403  
14 of this title [~~§9.403(a), relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted with~~  
15 ~~Changes or Additional Requirements~~].

16  
17 §9.2. Definitions.

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

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

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

26 [~~(2) AED--The Commission's Alternative Energy Division.]~~

27 [~~(3) AFRED--The organizational unit of the AED that administers the Commission's~~  
28 ~~alternative fuels research and education program, including LP-gas certification, exempt registration,~~  
29 ~~training, and continuing education programs.]~~

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

34 (2) [~~(5)~~] Aggregate water capacity (AWC)--The sum of all individual container

1 capacities measured by weight or volume of water which are placed at a single installation location.

2 ~~[(6) Applicant--An individual:]~~

3 ~~[(A) who is applying for a new certificate; or]~~

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

7 (3) ~~[(7)]~~ Bobtail driver--An individual who operates an LP-gas cargo tank motor vehicle  
8 of 5,000 gallons water capacity or less in metered delivery service.

9 (4) ~~[(8)]~~ Breakaway--The accidental separation of a hose from a cylinder, container,  
10 transfer equipment, or dispensing equipment, which could occur on a cylinder, container, transfer  
11 equipment, or dispensing equipment whether or not they are protected by a breakaway device.

12 (5) ~~[(9)]~~ Categories of LPG activities--The LP-gas license categories as specified in §9.6  
13 of this title (relating to Licenses and Fees).

14 (6) ~~[(10)]~~ Certificate holder--An individual:

15 (A) who has passed the required management-level qualification examination,  
16 pursuant to §9.10 of this title (relating to Rules Examination), paid the applicable fees, and satisfactorily  
17 completed any applicable training or continuing education requirements as specified in §9.52 of this title  
18 (relating to Training and Continuing Education [~~Courses~~])~~[-and paid the applicable fee];~~

19 (B) who has passed the required employee-level qualification examination  
20 pursuant to §9.10 of this title., paid the applicable fees, and complied with the training or continuing  
21 education requirements in §9.52 of this title, if applicable;

22 ~~[(C) who has passed the required employee-level qualification examination has~~  
23 ~~paid the applicable fee, and is required to comply with a training requirement as specified in §9.52 of this~~  
24 ~~title;]~~

25 (C) ~~[(D)]~~ who holds a current reciprocal examination exemption pursuant to  
26 §9.18 of this title (relating to Reciprocal Examination Agreements with Other States); or

27 (D) ~~[(E)]~~ who holds a current examination exemption certificate pursuant to  
28 §9.13 of this title (relating to General Installers and Repairman Exemption).

29 (7) ~~[(11)]~~ Certified--An individual who is authorized by the Commission to perform the  
30 LP-gas activities covered by the certification issued under §9.8 of this title (relating to Requirements and  
31 Application for a New Certificate, and §9.10 of this title (relating to Rules Examination) [Authorized to  
32 perform LP-gas work as set forth in the Texas Natural Resources Code. Employee certification alone does  
33 not allow an individual to perform those activities which require licensing].

34 (8) ~~[(12)]~~ CETP--The Certified Employee Training Program offered by the Propane

1 Education and Research Council (PERC), the National Propane Gas Association (NPGA), or their  
2 authorized agents or successors.

3 (9) [(13)] Commercial installation--An LP-gas installation located on premises other  
4 than a single family dwelling used as a residence or a private agricultural installation, including but not  
5 limited to a retail business establishment, school, bulk storage facility, convalescent home, hospital, retail  
6 LP-gas cylinder filling/exchange operation, service station, forklift refueling facility, private  
7 motor/mobile fuel cylinder filling operation, a microwave tower, or a public [~~or private~~] agricultural  
8 installation.

9 (10) [(14)] Commission--The Railroad Commission of Texas.

10 (11) [(15)] Company representative--The individual designated to the Commission by a  
11 license applicant or a licensee as the principal individual in authority and, in the case of a licensee other  
12 than a Category P licensee, actively supervising the conduct of the licensee's LP-gas activities.

13 (12) [(16)] Container delivery unit--A vehicle used by an operator principally for  
14 transporting LP-gas in cylinders.

15 (13) [(17)] Continuing education--Courses required to be successfully completed [at  
16 ~~least every four years~~] by [certain] certificate holders to maintain certification or registration.

17 (14) [(18)] Director--The director of AFS [~~the AED~~] or the director's delegate.

18 (15) [(19)] DOT--The United States Department of Transportation.

19 (16) [(20)] Employee--An individual who renders or performs any services or labor for  
20 compensation, including individuals hired on a part-time or temporary basis, on a full-time or permanent  
21 basis, and owner-employees [~~or, for purposes of this chapter, an owner-employee~~].

22 (17) [(21)] Interim approval order--The authority issued by the Railroad Commission of  
23 Texas following a public hearing allowing construction of an LP-gas installation.

24 (18) [(22)] Leak grades--An LP-gas leak that is:

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

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

30 (19) [(23)] Licensed--Authorized by the Commission to perform LP-gas activities  
31 through the issuance of a valid license.

32 (20) [(24)] Licensee--A person which has applied for and been granted an LP-gas license  
33 by the Commission[, or who holds a master or journeyman plumber license from the Texas State Board of  
34 Plumbing Examiners or a Class A or B Air Conditioning and Refrigeration Contractors License from the

1 ~~Texas Department of Licensing and Regulation and has properly registered with the Commission].~~

2 ~~[(25) LP-Gas Operations--The organizational unit of the AED that administers the LP-gas~~  
3 ~~safety program, including licensing, truck registration, installation approvals, complaint and accident~~  
4 ~~investigations, inspections of stationary installations and vehicles, and code enforcement.]~~

5 (21) [(26)] LP-Gas Safety Rules--The rules adopted by the Railroad Commission in the  
6 Texas Administrative Code, Title 16, Part 1, Chapter 9, including any NFPA or other documents adopted  
7 by reference. The official text of the Commission's rules is that which is on file with the Secretary of  
8 State's office and available at the Secretary of State's web site or the Commission's web site.

9 (22) [(27)] LP-gas system--All piping, fittings, valves, and equipment, excluding  
10 containers and appliances, that connect one or more containers to one or more appliances that use or  
11 consume LP-gas.

12 (23) [(28)] Mass transit vehicle--Any vehicle which is owned or operated by a political  
13 subdivision of a state, city, or county, used primarily in the conveyance of the general public.

14 (24) [(29)] Mobile fuel container--An LP-gas container mounted on a vehicle to store  
15 LP-gas as the fuel supply to an auxiliary engine other than the engine to propel the vehicle or for other  
16 uses on the vehicle.

17 (25) [(30)] Mobile fuel system--An LP-gas system, excluding the container, to supply  
18 LP-gas as a fuel to an auxiliary engine other than the engine to propel the vehicle or for other uses on the  
19 vehicle.

20 (26) [(31)] Motor fuel container--An LP-gas container mounted on a vehicle to store LP-  
21 gas as the fuel supply to an engine used to propel the vehicle.

22 (27) [(32)] Motor fuel system--An LP-gas system, excluding the container, which  
23 supplies LP-gas to an engine used to propel the vehicle.

24 ~~[(33) MPS gas (Methylacetylene-propadiene, stabilized)--A mixture of gases in the liquid~~  
25 ~~phase and as defined in Texas Natural Resources Code, Chapter 113, §113.002(4).]~~

26 (28) [(34)] Noncorrosive--Corrosiveness of gas which does not exceed the limitation for  
27 Classification 1 of ASTM International (ASTM) Copper Strip Classifications when tested in accordance  
28 with ASTM D 1834-64, "Copper Strip Corrosion of Liquefied Petroleum (LP) Gases."

29 (29) [(35)] Nonspecification unit--An LP-gas transport not constructed to DOT MC-330  
30 or MC-331 specifications but which complies with the exemption in 49 Code of Federal Regulations  
31 §173.315(k). (See also "Specification unit" in this section.)

32 (30) [(36)] Operations supervisor--The individual who is certified by the Commission to  
33 actively supervise a licensee's LP-gas activities ~~[operations]~~ and is authorized by the licensee to  
34 implement operational changes.

1           (31) [(37)] Outlet--A site operated by an LP-gas licensee from which any regulated LP-  
2 gas activity is performed.

3           (32) [(38)] Outside instructor--An individual, other than a Commission employee,  
4 approved by AFS [AFRED] to teach certain LP-gas training or continuing education courses.

5           (33) [(39)] Person--An individual, partnership, firm, corporation, joint venture,  
6 association, or any other business entity, a state agency or institution, county, municipality, school  
7 district, or other governmental subdivision, or licensee, including the definition of "person" as defined in  
8 the applicable sections of 49 CFR relating to cargo tank hazardous material regulations.

9           (34) [(40)] Portable cylinder--A receptacle constructed to DOT specifications, designed  
10 to be moved readily, and used for the storage of LP-gas for connection to an appliance or an LP-gas  
11 system. The term does not include a cylinder designed for use on a forklift or similar equipment.

12           (35) [(41)] Property line--The boundary which designates the point at which one real  
13 property interest ends and another begins.

14           (36) [(42)] Public transportation vehicle--A vehicle for hire to transport persons,  
15 including but not limited to taxis, buses (excluding school buses and mass transit or special transit  
16 vehicles), or airport courtesy vehicles.

17           (37) [(43)] Recreational vehicle--A vehicular-type unit primarily designed as temporary  
18 living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is  
19 mounted on, or towed by, another vehicle.

20           ~~[(44) Register (or registration)--The procedure to inform the Commission of the use of an~~  
21 ~~LP-gas transport or container delivery unit in Texas.]~~

22           (38) Registrant--A person who holds a master or journeyman plumber license from the  
23 Texas State Board of Plumbing Examiners or a Class A or B Air Conditioning and Refrigeration  
24 Contractors License from the Texas Department of Licensing and Regulation and has properly registered  
25 with the Commission.

26           (39) [(45)] Repair to container--The correction of damage or deterioration to an LP-gas  
27 container, the alteration of the structure of such a container, or the welding on such container in a manner  
28 which causes the temperature of the container to rise above 400 degrees Fahrenheit.

29           (40) [(46)] Rules examination--The Commission's written examination that measures an  
30 examinee's working knowledge of Chapter 113 of the Texas Natural Resources Code and/or the current  
31 LP-Gas Safety Rules.

32           (41) [(47)] School--A public or private institution which has been accredited through the  
33 Texas Education Agency or the Texas Private School Accreditation Commission.

34           (42) [(48)] School bus--A vehicle that is sold or used for purposes that include carrying

1 students to and from school or related events.

2 (43) [(49)] Self-service dispenser--A listed device or approved equipment in a structured  
3 cabinet for dispensing and metering LP-gas between containers that must be accessed by means of a  
4 locking device such as a key, card, code, or electronic lock[~~and which is operated by a certified~~  
5 ~~employee of an LP-gas licensee or an ultimate consumer trained by an LP-gas licensee~~].

6 (44) [(50)] Special transit vehicle--A vehicle designed with limited passenger capacity  
7 which is used by a [school or] mass transit authority for special transit purposes, such as transport of  
8 mobility impaired persons.

9 (45) [(51)] Specification unit--An LP-gas transport constructed to DOT MC-330 or MC-  
10 331 specifications. (See also "Nonspecification unit" in this section.)

11 (46) [(52)] Subframing--The attachment of supporting structural members to the pads of  
12 a container, excluding welding directly to or on the container.

13 (47) Temporary installation--A stationary installation at which LP-gas activities are  
14 performed for 12 months or less pursuant to §9.105 of this title (relating to Temporary Installations).

15 (48) [(53)] Trainee--An individual who has not yet taken and passed an employee-level  
16 rules examination.

17 (49) [(54)] Training--Courses required to be successfully completed as part of an  
18 individual's requirements to obtain or maintain certain certificates.

19 [~~(55) Transfer--The procedure to inform LP-Gas Operations of a change in operator of~~  
20 ~~an LP-gas transport or container delivery unit already registered with LP-Gas Operations.~~]

21 (50) [(56)] Transfer system--All piping, fittings, valves, pumps, compressors, meters,  
22 hoses, bulkheads, and equipment utilized in transferring [~~dispensing~~] LP-gas between containers.

23 (51) [(57)] Transport--Any bobtail or semitrailer equipped with one or more containers.

24 (52) [(58)] Transport driver--An individual who operates an LP-gas trailer or semi-trailer  
25 equipped with a container of more than 5,000 gallons water capacity.

26 (53) [(59)] Transport system--Any and all piping, fittings, valves, and equipment on a  
27 transport, excluding the container.

28 (54) [(60)] Ultimate consumer--The person controlling LP-gas immediately prior to its  
29 ignition.

30  
31 §9.3. LP-Gas [Report] Forms.

32 Forms required to be filed with AFS shall be those prescribed by the Commission. A complete set  
33 of all required forms shall be posted on the Commission's web site. Notice of any new or amended forms  
34 shall be issued by the Commission. A person may file the prescribed form on paper or use any electronic

1 filing process. The Commission may at its discretion accept an earlier version of a prescribed form,  
2 provided that it contains all required information. [~~Under the provision of the Texas Natural Resources~~  
3 ~~Code, Chapter 113, the Railroad Commission of Texas has adopted the following forms:]~~

4 [~~Figure: 16 TAC §9.3]~~

5  
6 §9.4. Records [~~and Enforcement~~].

7 (a) Records. Each LP-gas licensee or registrant shall retain:

8 (1) records of pressure tests and leakage tests for at least five years, including test  
9 medium, duration, beginning pressure, and ending pressure;

10 (2) a copy of all documentation submitted for an exception to an LP-gas rule pursuant to  
11 §9.27 of this title (relating to Application for an Exception to a Safety Rule), including the AFS [~~LP-Gas~~  
12 ~~Operations]~~ director's memorandum granting the exception, for as long as the exception is in use; and

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

14 (b) Periodic inspection. AFS [~~LP-Gas Operations]~~ shall formulate a plan or program for periodic  
15 evaluation or inspection of records and facilities owned, operated, or serviced by LP-gas licenses or  
16 registrants for the purpose of verifying compliance with this chapter.

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

20 (d) Licensee and registrant obligations.

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

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

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

34

1 §9.5. Penalty Guidelines and Enforcement [~~Effect of Safety Violations~~].

2 (a) Penalty guidelines for LP-gas safety violations.

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

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

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

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

- 30 (A) the person's history of previous violations;  
31 (B) the seriousness of the previous violations;  
32 (C) any hazard to the health or safety of the public; and  
33 (D) the demonstrated good faith of the person charged.

34 (5) Typical penalties. Regardless of the method by which the typical penalty amount is

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

5  
6 Figure: 16 TAC §9.5(a)(5)  
7

8 (6) Penalty enhancements for certain violations. For violations that involve threatened or  
9 actual safety hazards, or that result from the reckless or intentional conduct of the person charged, the  
10 Commission may assess an enhancement of the typical penalty. The enhancement may be in any amount  
11 in the range shown for each type of violation, as shown in Table 2.  
12

13 Figure: 16 TAC §9.5(a)(6) (No change.)  
14

15 (7) Penalty enhancements for certain violators. For violations in which the person  
16 charged has a history of prior violations within seven years of the current enforcement action, the  
17 Commission may assess an enhancement based on either the number of prior violations or the total  
18 amount of previous administrative penalties, but not both. The actual amount of any penalty enhancement  
19 will be determined on an individual case-by-case basis for each violation. The guidelines in Tables 3 and  
20 4 are intended to be used separately. Either guideline may be used where applicable, but not both.

21 Figure 1: 16 TAC §9.5(a)(7) (No change.)

22 Figure 2: 16 TAC §9.5(a)(7) (No change.)

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

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

34 (10) Other sanctions. Depending upon the nature of and the consequences resulting from

1 a violation of the rules in this chapter, the Commission may impose a non-monetary penalty, such as  
2 requiring attendance at a safety training course, or may issue a warning.

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

7  
8 Figure: 16 TAC §9.5(a)(11)  
9

10 [~~(a) This section implements the provisions of Texas Natural Resources Code, §113.163, and~~  
11 ~~applies to a violation that occurs on or after September 1, 2005.]~~

12 (b) Violations.

13 (1) [~~(b)~~] Except as provided by paragraphs (4) and (5) of this subsection [~~subsections~~  
14 ~~(e) and (f) of this section~~], the Commission may not approve an application for an initial or renewal  
15 license or registration for an exemption under this chapter if:

16 (A) [~~(1)~~] the applicant or registrant for an exemption has violated a statute or  
17 Commission rule, order, license, permit, or certification [~~certificate~~] that relates to safety; or

18 (B) [~~(2)~~] a person who holds a position of ownership or control in the applicant  
19 or registrant for an exemption has held a position of ownership or control in another person during the  
20 seven years preceding the date on which the application or registration for an exemption is filed and  
21 during that period of ownership or control the other person violated a statute or Commission rule, order,  
22 license, permit, or certification [~~certificate~~] that relates to safety.

23 (2) [~~(c)~~] An applicant, registrant for an exemption, or other person has committed a  
24 violation described by paragraph (1) of this subsection [~~(b) of this section~~] if:

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

28 (B) [~~(2)~~] the Commission and the applicant, registrant for an exemption, or other  
29 person have entered into an agreed order relating to the alleged violation.

30 (3) [~~(d)~~] Regardless of whether the person's name appears or is required to appear on an  
31 application or registration for an exemption, a person holds a position of ownership or control in an  
32 applicant, registrant for an exemption, or other person if the person is:

33 (A) [~~(1)~~] an officer, director, general partner, sole owner, or trustee of, or the  
34 owner of at least 25 percent of the beneficial interest in the applicant, registrant for an exemption, or other

1 person; or

2 (B) ~~[(2)]~~ the applicant, registrant, or other person and has been determined by a  
3 final judgment or final administrative order to have exerted actual control over the applicant, registrant, or  
4 other person.

5 (4) ~~[(4)]~~ The Commission shall approve an application for a license or registration for an  
6 exemption under this chapter, if all of the following conditions, if applicable, are met:

7 (A) ~~[(1)]~~ the conditions that constituted the violation have been corrected or are  
8 being corrected in accordance with a schedule to which the Commission and the applicant, registrant for  
9 an exemption, or other person have agreed;

10 (B) ~~[(2)]~~ all administrative, civil, and criminal penalties have been paid or are  
11 being paid in accordance with a payment schedule to which the Commission and the applicant, registrant  
12 for an exemption, or other person have agreed; and

13 (C) ~~[(3)]~~ the application or registration for an exemption complies with all other  
14 requirements of law and Commission rules.

15 (5) ~~[(5)]~~ The Commission may issue a license to an applicant described by paragraph (1)  
16 of this subsection ~~[(b) of this section]~~ or approve a registration for an exemption for a registrant for an  
17 exemption described by paragraph (1) of this subsection ~~[(b) of this section]~~ for a term specified by the  
18 Commission if the license or registration for an exemption is necessary to remedy a violation of law or  
19 Commission rules.

20 (6) ~~[(6)]~~ If the Commission is prohibited by paragraph (1) of this subsection ~~[(b) of this~~  
21 ~~section]~~ from approving an application for a license or a registration for an exemption or would be  
22 prohibited from doing so by this [that] subsection if the applicant, licensee, or registrant for an exemption  
23 submitted an application or registration for an exemption, then the Commission, after notice and  
24 opportunity for a hearing, by order may refuse to renew or may revoke a license or registration for an  
25 exemption issued to the applicant, licensee, or registrant for an exemption under this chapter.

26 (A) ~~[(1)]~~ In determining whether to refuse to renew or to revoke a person's  
27 license or registration for an exemption under this paragraph ~~[subsection]~~, the Commission shall consider  
28 the person's history of previous violations, the seriousness of previous violations, any hazard to the health  
29 or safety of the public, and the demonstrated good faith of the person.

30 (B) ~~[(2)]~~ If an application or registration for an exemption is denied under this  
31 paragraph ~~[subsection]~~, the Commission shall provide the applicant or registrant for an exemption with a  
32 written statement explaining the reason for the denial.

33 (C) ~~[(3)]~~ An order issued under this paragraph ~~[subsection]~~ must provide the  
34 applicant, licensee, or registrant for an exemption a reasonable period to comply with the judgment or

1 order finding the violation before the order takes effect.

2 (D) [(4)] The Commission's refusal to renew or revocation of a person's license  
3 or registration for an exemption under this paragraph [subsection] does not relieve the person of any  
4 existing or future duty under law, rules, or license or registration conditions.

5 (E) [(5)] On refusal to renew or revocation of a person's license or registration  
6 for an exemption under this paragraph [subsection], the person may not perform any activities under the  
7 jurisdiction of the Commission under this chapter, except as necessary to remedy a violation of law or  
8 Commission rules and as authorized by the Commission under a license or registration for an exemption  
9 issued under paragraph (5) of this subsection [(f) of this section].

10 (F) [(6)] A fee tendered in connection with an application or registration for an  
11 exemption that is denied under this section is nonrefundable.

12 (G) [(7)] The Commission may not revoke or refuse to renew a license or  
13 registration for an exemption under this paragraph [subsection] if the Commission finds that the applicant,  
14 licensee, or registrant for an exemption has fulfilled the conditions set out in paragraph (4) of this  
15 subsection [(e) of this section].

16 (c) Denial, suspension, or revocation of licenses or certifications.

17 (1) Denial, suspension, or revocation of licenses or certifications. The Commission may  
18 deny, suspend, or revoke a license or certification for any individual who fails to comply with the LP-Gas  
19 Safety Rules.

20 (A) If AFS determines that an applicant for license, certification, or renewal has  
21 not met the requirements of the LP-Gas Safety Rules, AFS shall notify the applicant in writing of the  
22 reasons for the proposed denial. In the case of an applicant for license or certification, the notice shall  
23 advise the person that the application may be resubmitted within 30 calendar days of receipt of the denial  
24 with all cited deficiencies corrected, or, if the person disagrees with AFS' determination, that person may  
25 request in writing a hearing on the matter within 30 calendar days of receipt of the notice of denial.

26 (B) If a person resubmits the application for license or license renewal within 30  
27 calendar days of receipt of the denial with all deficiencies corrected, AFS shall issue the license or license  
28 renewal.

29 (2) Hearing regarding denial of license or license renewal.

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

1                   (B) Upon receipt of a request complying with this paragraph, AFS shall forward  
2 the request for a hearing to the Hearings Division for the purpose of scheduling a hearing.

3                   (C) If, after hearing, the Commission finds the applicant's claim has been  
4 supported, the Commission may issue an order approving the category or categories of license for which  
5 the applicant is entitled to be licensed, and the license or renewal shall be issued.

6                   (D) If, after hearing, the Commission finds that the applicant does not comply  
7 with the requirements of this chapter for the license or license renewal in the category or categories of  
8 license sought, the Commission may issue an order denying the licensee's application or renewal.

9                   (3) Alleged violations and notice of non-compliance.

10                   (A) If AFS finds by means including, but not limited to, inspection, review of  
11 required documents submitted, or complaint by a member of the general public or any other person, a  
12 probable or actual violation of or noncompliance with the Texas Natural Resources Code, Chapter 113, or  
13 the LP-Gas Safety Rules, AFS shall notify the licensee or certified person of the alleged violation or  
14 noncompliance in writing.

15                   (B) The notice shall specify the acts, omissions, or conduct constituting the  
16 alleged violation or noncompliance and shall designate a date not less than 30 calendar days or more than  
17 45 calendar days after the licensee or certified person receives the notice by which the violation or  
18 noncompliance shall be corrected or discontinued. If AFS determines the violation or noncompliance may  
19 pose imminent peril to the health, safety, or welfare of the general public, AFS may notify the licensee or  
20 certified person orally with instruction to immediately cease the violation or noncompliance. When oral  
21 notice is given, AFS shall follow it with written notification no later than five business days after the oral  
22 notification.

23                   (C) The licensee or certified person shall either report the correction or  
24 discontinuance of the violation or noncompliance within the time frame specified in the notice or shall  
25 request an extension of time in which to comply. The request for extension of the time to comply shall be  
26 received by AFS within the same time frame specified in the notice for correction or discontinuance.

27                   (4) Hearing regarding suspension or revocation of licenses and certifications. If a licensee  
28 or certified person disagrees with the determination of AFS under this subsection, that person may request  
29 a public hearing on the matter as specified in Chapter 1 of this title (relating to Practice and Procedure).  
30 The request shall be in writing, shall refer to the specific rules or statutes the licensee or certified person  
31 claims to have complied with, and shall be received by AFS within 30 calendar days of the licensee's or  
32 certified person's receipt of the notice of violation or noncompliance. AFS shall forward the request for  
33 hearing to the Hearings Division.

1 §9.6. Licenses and Fees.

2 (a) A prospective licensee may apply to AFS [~~LP-Gas Operations,~~] for one or more licenses  
3 specified in subsection (b) [~~(c)(1)–(16)~~] of this section. Fees required to be paid shall be those  
4 established by the Commission and in effect at the time of licensing or renewal.

5 [~~(b) An original manufacturer of a new motor vehicle powered by LP-gas, or a subcontractor of a~~  
6 ~~manufacturer who produces a new LP-gas powered motor vehicle for the manufacturer, is not subject to~~  
7 ~~the licensing requirements of this title, but shall comply with all other LP-Gas Safety Rules.~~]

8 (b) [~~(c)~~] The license categories and fees are as follows.

9 (1) A Category A license for container manufacturers and/or fabricators authorizes the  
10 manufacture, fabrication, assembly, repair, installation, subframing, testing, and sale of ASME or DOT  
11 LP-gas containers, including LP-gas motor or mobile fuel containers and systems, and the repair and  
12 installation of transport and transfer systems. A Category A license includes all activities covered by a  
13 Category A1 and Category A2 license. The original license fee is \$1,500 [~~\$1,000~~]; the renewal fee is  
14 \$750 [~~\$600~~].

15 (2) A Category A1 license for ASME container manufacturers and/or fabricators  
16 authorizes the manufacture, fabrication, assembly, repair, installation, subframing, testing, and sale of  
17 ASME containers, including LP-gas motor or mobile fuel containers and systems, and the repair and  
18 installation of transport and transfer systems. The original license fee is \$1,500; the renewal fee is \$750.

19 (3) A Category A2 license for U.S. Department of Transportation (DOT) container  
20 manufacturers and/or fabricators authorizes the manufacture, fabrication, assembly, repair, installation,  
21 subframing, testing, and sale of LP-gas DOT containers, including LP-gas motor or mobile fuel  
22 containers and systems, and the repair and installation of transport and transfer systems. The original  
23 license fee is \$1,500; the renewal fee is \$750.

24 (4) [~~(2)~~] A Category B license for transport outfitters authorizes the subframing, testing,  
25 and sale of LP-gas transport containers, the testing of LP-gas storage containers, the installation, testing,  
26 and sale of LP-gas motor or mobile fuel containers and systems, and the installation and repair of  
27 transport systems and motor or mobile fuel systems. The original license fee is \$600 [~~\$400~~]; the renewal  
28 fee is \$300 [~~\$200~~].

29 (5) [~~(3)~~] A Category C license for carriers authorizes the transportation of LP-gas by  
30 transport, including the loading and unloading of LP-gas, and the installation and repair of transport  
31 systems. The original license fee is \$1,000; the renewal fee is \$500 [~~\$300~~].

32 (6) [~~(4)~~] A Category D license for general installers and repairmen authorizes the sale,  
33 service, and installation of containers, [~~excluding motor fuel containers,~~] and the service, installation, and  
34 repair of piping, and certain appliances as defined by rule. A Category D license does not authorize the

1 installation of motor fuel containers, [excluding] recreational vehicle appliances and LP-gas systems, and  
2 motor fuel and recreational vehicle systems. [The service and repair of an LP-gas appliance not required  
3 by the manufacturer to be vented to the atmosphere is exempt from Category D licensing. The installation  
4 of these unvented appliances to LP-gas systems by means of LP-gas appliance connectors is also exempt  
5 from Category D licensing.] The original license fee is \$200 [~~\$100~~]; the renewal fee is \$100 [~~\$70~~].  
6 Persons with certain licenses issued [Additionally, master or journeyman plumbers who are licensed] by  
7 the Texas State Board of Plumbing Examiners or [persons who are licensed with a Class A or B Air  
8 Conditioning and Refrigeration Contractors License issued by] the Texas Department of Licensing and  
9 Regulation may register with AFS [AFRED] as described in §9.13 of this title (relating to General  
10 Installers and Repairman Exemption). [The initial registration fee is \$50; the registration renewal fee is  
11 \$20.]

12 (7) [(5)] A Category E license for retail and wholesale dealers authorizes the storage,  
13 sale, transportation, and distribution of LP-gas at retail and wholesale dealers, and all other activities  
14 included in this section, except the manufacture, fabrication, assembly, repair, subframing, and testing of  
15 LP-gas containers, and except the sale and installation of LP-gas motor or mobile fuel systems that  
16 service an engine with a rating of more than 25 horsepower. The original license fee is \$1,000 [~~\$750~~]; the  
17 renewal is \$500 [~~\$300~~].

18 (8) [(6)] A Category F license for cylinder filling authorizes the operation of a cylinder  
19 filling facility, including cylinder filling, the sale of LP-gas in cylinders, and the replacement of cylinder  
20 valves. The original license fee is \$200 [~~\$100~~]; the renewal fee is \$100 [~~\$50~~].

21 (9) [(7)] A Category G license for dispensing stations authorizes the operation of LP-gas  
22 dispensing stations filling ASME containers designed for motor or mobile fuel. The original license fee is  
23 \$200 [~~\$100~~]; the renewal is \$100 [~~\$50~~].

24 (10) [(8)] A Category H license for cylinder dealers authorizes the transportation and sale  
25 of LP-gas in cylinders. The original license fee is \$1,000; the renewal is \$500 [~~\$300~~].

26 (11) [(9)] A Category I license for service stations and cylinder filling authorizes any  
27 service station and cylinder activity set out in Category F and Category G of this section. A Category I  
28 license does not authorize the transportation of LP-gas. The original license fee is \$300 [~~\$150~~]; the  
29 renewal is \$150 [~~\$70~~].

30 (12) [(10)] A Category J license for service stations and cylinder facilities authorizes the  
31 operation of a cylinder filling facility, including cylinder filling and the sale, transportation, installation,  
32 and connection of LP-gas in cylinders, the replacement of cylinder valves, and the operation of an LP-gas  
33 service station as set out in Category G. The original license fee is \$1,000; the renewal is \$500 [~~\$300~~].

34 (13) [(11)] A Category K license for distribution systems authorizes the sale and

1 distribution of LP-gas through mains or pipes, and the installation and repair of LP-gas systems. The  
2 original license fee is \$1,000; the renewal is \$500 [~~\$300~~].

3 (14) [(12)] A Category L license for engine and mobile fuel authorizes the sale and  
4 installation of LP-gas motor or mobile fuel containers, and the sale and installation of LP-gas motor or  
5 mobile fuel systems. A Category L license includes all activities covered by a Category L1, Category L2,  
6 and Category L3 license. The original license fee is \$200 [~~\$100~~]; the renewal is \$100 [~~\$50~~].

7 (15) A Category L1 license for on-road engine fuel authorizes the sale and installation of  
8 LP-gas motor fuel containers, cylinders, and LP-gas motor fuel systems, and the replacement of container  
9 valves on motorized vehicles licensed to operate on public roadways. the original license fee is \$200; the  
10 renewal fee is \$100.

11 (16) A Category L2 license for non-road engine fuel authorizes the sale and installation  
12 of LP-gas motor fuel containers, cylinders, and LP-gas motor fuel systems, and the replacement of  
13 container valves on motorized equipment and vehicles that are not licensed to operate on public  
14 roadways, including but not limited to industrial forklift trucks and lawnmowers. The original license fee  
15 is \$200; the renewal fee is \$100.

16 (17) A Category L3 license for mobile fuel authorizes the sale and installation of LP-gas  
17 mobile fuel containers, cylinders, and LP-gas mobile fuel systems, and the replacement of container  
18 valves on mobile fuel equipment such as trailers, catering trucks, mobile kitchens, tar kettles, hot oil units,  
19 auxiliary engines, and similar equipment. The original license fee is \$200; the renewal fee is \$100.

20 (18) [(13)] A Category M license for recreational vehicle installers and repairmen  
21 authorizes the sale, service, and installation of recreational vehicle containers, and the installation, repair,  
22 and service of recreational vehicle appliances, piping, and LP-gas systems, including recreational vehicle  
23 motor or mobile fuel systems and containers. The original license fee is \$200 [~~\$100~~]; the renewal is \$100  
24 [~~\$70~~].

25 (19) [(14)] A Category N license for manufactured housing installers and repairmen  
26 authorizes the service and installation of containers that supply fuel to manufactured housing, and the  
27 installation, repair, and service of appliances and piping systems for manufactured housing. The original  
28 license fee is \$200 [~~\$100~~]; the renewal is \$100 [~~\$70~~].

29 (20) [(15)] A Category O license for testing laboratories authorizes the testing of LP-gas  
30 containers, LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems for  
31 the purpose of determining the safety of the containers or systems for LP-gas service, including the  
32 necessary installation, disconnection, reconnection, testing, and repair of LP-gas motor fuel systems or  
33 mobile fuel systems, transfer systems, and transport systems involved in the testing of containers. The  
34 original license fee is \$500 [~~\$400~~]; the renewal is \$250 [~~\$100~~].

1           (21) [(16)] A Category P license for portable cylinder exchange authorizes the operation  
2 of a portable cylinder exchange service, where the sale of LP-gas is within a portable cylinder with an LP-  
3 gas capacity not to exceed 21 pounds, where the portable cylinders are not filled on site, and where no  
4 other LP-gas activity requiring a license is conducted. The original license fee is \$200 [~~\$100~~]; the renewal  
5 fee is \$100 [~~\$50~~].

6           (d) A military service member, military veteran, or military spouse shall be exempt from the  
7 original license fee pursuant to the requirements in §9.14 of this title (relating to Military Fee Exemption).  
8 An individual who receives a military fee exemption is not exempt from renewal or transport registration  
9 fees specified in §9.7 and §9.202 of this title (relating to Application for License and License Renewal  
10 Requirements; and Registration and Transfer of LP-Gas Transports or Container Delivery Units,  
11 respectively).

12  
13 §9.7. Application for License and License Renewal Requirements.

14           (a) No person may engage in any LP-gas activities until that person has obtained a license from  
15 the Commission authorizing the LP-gas activities, except as follows:

16           (1) A person exempt from licensing under Texas Natural Resources Code §113.081(b),  
17 shall not engage in any LP-gas activities in commerce or in business without first obtaining a license.

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

22           (3) An original manufacturer of a new motor vehicle powered by LP-gas, or a  
23 subcontractor of a manufacturer who produces a new LP-gas powered motor vehicle for the manufacturer  
24 is not subject to licensing requirements but shall comply with all other LP-Gas Safety Rules.

25           (4) An ultimate consumer is not subject to licensing requirements if performing LP-gas  
26 activities dealing only with the ultimate consumer; however, a license is required to register a transport,  
27 bobtail, or cylinder delivery unit. An ultimate consumer's license does not require a fee or a company  
28 representative.

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

34           [(a) No person shall perform work, directly supervise LP-gas activities, or be employed in any

1 ~~capacity requiring contact with LP-gas unless:]~~

2 ~~[(1) that individual has taken and passed any applicable rules examination specified in~~  
3 ~~§9.10 of this title (relating to Rules Examination) and in §9.17 of this title (relating to Designation and~~  
4 ~~Responsibilities of Company Representatives and Operations Supervisors);]~~

5 ~~[(2) the individual is in compliance with the training and continuing education~~  
6 ~~requirements beginning in §9.51 of this title (relating to General Requirements for Training and~~  
7 ~~Continuing Education), except for a trainee described in §9.12 of this title (relating to Trainees);]~~

8 ~~[(3) prior to performing authorized LP-gas activities in Texas, the individual is employed~~  
9 ~~by a licensee or by a license-exempt entity, such as a political subdivision or a state agency; or]~~

10 ~~[(4) the individual holds a current examination exemption certificate pursuant to §9.13 of~~  
11 ~~this title (relating to General Installers and Repairman Exemption) and is therefore exempt from the~~  
12 ~~requirements of this subsection.]~~

13 ~~[(b) A person exempt from licensing as authorized by Texas Natural Resources Code,~~  
14 ~~§113.081(b), shall not engage in any LP-gas activities in commerce or in business without first obtaining~~  
15 ~~a license.]~~

16 ~~[(c) A state agency or institution, county, municipality, school district, or other governmental~~  
17 ~~subdivision is exempt from licensing requirements as provided in §113.081(g) if the entity is performing~~  
18 ~~work for itself on its own behalf, but is required to be licensed to perform work for or on behalf of a~~  
19 ~~second party.]~~

20 (c) [(d)] Licensees, company representatives, and operations supervisors at each outlet shall have  
21 copies of all current licenses and certification cards for employees at that location available for inspection  
22 during regular business hours. In addition, licensees shall maintain a current version of the LP-Gas Safety  
23 Rules and any adopted codes covering LP-gas activities performed by the licensee, and shall provide at  
24 least one copy of all publications to each company representative and operations supervisor. The copies  
25 shall be available to employees during business hours.

26 (d) [(e)] Licenses issued under this chapter expire one year after issuance at midnight on the last  
27 day of the month prior to the month in which they are issued.

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

29 (f) An applicant for a new license shall submit to AFS [~~file with LP-Gas Operations~~]:

30 (1) a properly completed LPG Form 1 listing all names under which LP-gas related  
31 activities requiring licensing are to be conducted and the applicant's properly qualified company  
32 representative, and the applicable fee specified in §9.6 of this title (relating to Licenses and Fees) [~~for~~  
33 ~~licensees engaging in LP-gas product activities as defined in Texas Natural Resources Code,~~  
34 ~~§113.081(a)(4), including a 24-hour emergency response telephone number. Any company performing~~

1 ~~LP-gas activities under an assumed name ("DBA" or "doing business as" name) shall file copies of the~~  
2 ~~assumed name certificates which are required to be filed with the respective county clerk's office and/or~~  
3 ~~the Secretary of State's office with LP-Gas Operations]; and any of the following applicable forms or~~  
4 ~~documents:~~

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

6 (A) LPG Form 1A if the applicant will operate ~~[establish]~~ any outlets pursuant to  
7 subsection (g) of this section;

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

11 (C) LPG Form 19 if the applicant will be transferring the operation of an existing  
12 bulk plant, service station, or cylinder filling~~[, or portable cylinder exchange rack]~~ installation from  
13 another owner or name; ~~[and/or]~~

14 (D) LPG Form 19A if the applicant will be transferring the operation of one or  
15 more existing portable cylinder exchange rack installations from another owner or name;

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

18 (F) a copy of the current franchise tax certificate from the Texas Comptroller of  
19 Public Accounts if the applicant is a corporation, limited liability or limited partnership, in accordance  
20 with §9.21 of this title (relating to Franchise Tax Certification and Assumed Name Certificates); and/or

21 (G) copies of the assumed name certificates which are required to be filed with  
22 the respective county clerk's office and/or the Secretary of State's office if the applicant will be  
23 performing any LP-gas activities under an assumed name ("DBA" or "doing business as"), in accordance  
24 with §9.21 of this title;

25 ~~(2) [(3)] payment for any other applicable fees [pay the following fees:]~~

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

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

31 ~~[(C) the nonrefundable management-level rules examination fee specified in~~  
32 ~~§9.10 of this title (relating to Rules Examination); and]~~

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

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

11  
12           (g) A licensee shall submit LPG Form 1A listing all outlets operated by the licensee, and pay a  
13 \$10 fee for each outlet listed on the form.

14                   (1) Each outlet shall employ an operations supervisor who meets the requirements of  
15 §9.17 of this title.

16                   (2) Each outlet shall be listed on the operating licensee's renewal addressed in subsection  
17 (i) of this section. A \$10 fee per outlet shall be submitted with the renewal.

18           (h) AFS will review the application to verify all requirements have been met.

19                   (1) If errors or missing information are found on the application or other documents the  
20 applicant will be notified of the deficiencies in writing.

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

24                   (3) If all requirements have been met, AFS will issue a license and mail the license to the  
25 licensee.

26           (i) [(h)] For license renewals: [,]

27                   (1) AFS [LP-Gas Operations] shall notify the licensee in writing at the address on file  
28 with AFS [LP-Gas Operations] of the impending license expiration at least 30 calendar days before the  
29 date ~~the~~ [a person's] license is scheduled to expire.

30                   (2) The renewal notice shall include copies of applicable LPG Forms 1, 1A, and 7[;  
31 whichever are applicable,] showing the information currently on file, and a list of certificate holders  
32 currently recorded as employed by the licensee whose certification renewal is pending. The renewal  
33 notice will list any continuing education due dates for each employee.

34                   (3) The licensee shall review all renewal documentation, verify that the information is

1 correct, and return [Renewals shall be submitted] to AFS [LP-Gas Operations] with any necessary  
2 changes clearly marked on the forms. If the franchise tax or assumed name certificates required by  
3 subsection (i) of this section have expired, then updated certificates shall be provided.

4 (4) The licensee shall submit the renewal forms, [Licensees engaging in LP-gas product  
5 activities as defined in Texas Natural Resources Code, §113.081(a)(4), shall include on LPG Form 1 a 24-  
6 hour emergency response telephone number, if not previously submitted, along with] the license renewal  
7 fee specified in §9.6 of this title (relating to Licenses and Fees), and any other applicable fees with  
8 adequate time for processing to avoid the expiration of the license [transport registration fee specified in  
9 §9.202 of this title (relating to Registration and Transfer of LP-Gas Transports or Container Delivery  
10 Units) on or before the last day of the month in which the license expires in order for the licensee to  
11 continue LP-gas activities].

12 (A) Failure to meet the renewal deadline set forth in this section shall result in  
13 expiration of the license.

14 (B) If a person's license expires, that person shall immediately cease  
15 performance of any LP-gas activities authorized by the license. Activities may only resume once the  
16 license is renewed.

17 (C) If a person's license has been expired for 90 calendar days or fewer, the  
18 person shall submit a renewal fee that is equal to 1 1/2 times the license renewal fee.

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

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

24 (5) After verification that [,-if] the licensee has met all [other] requirements for licensing,  
25 AFS [LP-Gas Operations] shall renew the license and mail a license certificate to the licensee [,-and the  
26 person may resume LP-gas activities].

27 (6) If the renewal has deficiencies, AFS shall notify the licensee in writing of the items  
28 needed to complete the renewal process.

29 (A) If a licensee receives notice of delinquent items in the renewal process, the  
30 licensee must respond with the required items prior to the expiration date of the license.

31 (B) Failure to submit the required items by the deadline shall result in expiration  
32 of the license.

33 [(1) If a person's license has been expired for 90 calendar days or fewer, the person shall  
34 submit a renewal fee that is equal to 1 1/2 times the renewal fee required by §9.6 of this title. Upon

1 ~~receipt of the renewal fee, LP-Gas Operations shall verify that the person's license has not been~~  
2 ~~suspended, revoked, or expired for more than one year. After verification, if the licensee has met all other~~  
3 ~~requirements for licensing, LP-Gas Operations shall renew the license, and the person may resume LP-gas~~  
4 ~~activities.]~~

5 ~~[(2) If a person's license has been expired for more than 90 calendar days but less than~~  
6 ~~one year, the person shall submit a renewal fee that is equal to two times the renewal fee required by §9.6~~  
7 ~~of this title. Upon receipt of the renewal fee, LP-Gas Operations shall verify that the person's license has~~  
8 ~~not been suspended, revoked, or expired for more than one year. After verification, if the licensee has met~~  
9 ~~all other requirements for licensing, LP-Gas Operations shall renew the license, and the person may~~  
10 ~~resume LP-gas related activities.]~~

11 ~~[(3) If a person's license has been expired for one year or more, that person shall not~~  
12 ~~renew, but shall comply with the requirements for issuance of an original license.]~~

13 ~~(j) [(4)] A person who was licensed in this state, moved to another state, and is currently licensed~~  
14 ~~and has been in practice in the other state for the two years preceding the date of application may obtain a~~  
15 ~~new license without reexamination. The person shall pay to AFS [LP-Gas Operations] a fee that is equal~~  
16 ~~to two times the renewal fee required by §9.6 of this title.~~

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

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

27 ~~(k) [(i)] Applicants for license or license renewal in the following categories shall comply with~~  
28 ~~these additional requirements:~~

29 ~~(1) An applicant for a Category A, A1, or A2 license or renewal shall file with AFS [LP-~~  
30 ~~Gas Operations] for each of its outlets legible copies of [:-] its current Department of Transportation (DOT)~~  
31 ~~and/or American Society of Mechanical Engineers (ASME) Section VIII authorization, as applicable.~~

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

34 ~~[(B) its current American Society of Mechanical Engineers (ASME) Code;~~

1 ~~Section VIII certificate of authorization:]~~

2 (2) An applicant for a Category B or O license or renewal shall file with AFS [~~LP-Gas~~  
3 ~~Operations~~] a properly completed LPG Form 505 certifying that the applicant will follow the testing  
4 procedures indicated. The [~~company representative designated on the licensee's LPG Form 1 shall sign~~  
5 ~~the~~] LPG Form 505 shall be signed by the appropriate company representative designated on the  
6 licensee's LPG Form 1.

7 (3) An applicant for Category A, A2, B, or O license or renewal who tests tanks,  
8 subframes LP-gas cargo tanks, or performs other activities requiring DOT registration shall file with AFS  
9 [~~LP-Gas Operations~~] a copy of any applicable current DOT registrations. Such registration shall comply  
10 with Title 49, Code of Federal Regulations, Part 107 (Hazardous Materials Program Procedures), Subpart  
11 F (Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers and Repairers and Cargo  
12 Tank Motor Vehicle Assemblers).

13 (1) A licensee may submit LPG Form 18 to request additional copies of the license certificate at a  
14 cost of \$5 per certificate.

15  
16 §9.8. Requirements and Application for a New Certificate.

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

19 (1) that individual has taken and passed any applicable rules examination specified in  
20 §9.10 of this title (relating to Rules Examination), is in compliance with the training and continuing  
21 education requirements in §§9.51 and 9.52 of this title (relating to General Requirements for LP-Gas  
22 Training and Continuing Education, and Training and Continuing Education, respectively), and is  
23 employed by a licensee or a license-exempt entity in accordance with §9.7 of this title (relating to  
24 Application for License and License Renewal Requirements);

25 (2) that individual is a trainee who complies with §9.12 of this title (relating to Trainees);  
26 or

27 (3) that individual holds a current examination exemption certificate pursuant to §9.13 of  
28 this title (relating to General Installers and Repairman Exemption).

29 (b) [(a)] An applicant for a new certificate shall:

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

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

33 (3) complete any required training and/or AFT in §9.51 and §9.52 of this title (relating to  
34 General Requirements for LP-Gas Training and Continuing Education; and Training and Continuing

1 Education [~~Courses~~]).

2 (c) [~~(b)~~] An individual who holds an employee-level certificate who wishes to obtain a  
3 management-level certificate shall comply with the requirements of this section, including training and  
4 fees.

5  
6 §9.9. Requirements for Certificate Holder Renewal.

7 [~~(a) Active status. In order to maintain active status, certificate holders shall comply with the~~  
8 ~~applicable continuing education requirements in this section.~~]

9 (a) [~~(b)~~] AFS [~~Certificate renewal date. AFRED~~] shall notify licensees of any of their employees'  
10 pending renewal deadlines [~~renewals~~] through the licensee's annual license renewal notice and shall notify  
11 the individual if not employed by a licensee, in writing, at the address on file with AFS at least 30 days  
12 prior to the individual's certification or registration expiration [~~AFRED no later than March 15 of a year~~  
13 ~~for the May 31 renewal date of that year~~].

14 (b) [~~(c)~~] Certificate holders shall remit the nonrefundable \$50 [~~\$35~~] annual certification or  
15 registration [~~certificate~~] renewal fee to AFS [~~AFRED~~] on or before the deadline [~~May 31 of~~] each year.  
16 Individuals who hold more than one certification [~~certificate~~] shall pay only one annual renewal fee.

17 (1) Failure to pay the nonrefundable annual renewal fee by the deadline shall result in a  
18 lapsed certification or registration.

19 (A) To renew a lapsed certification or registration, the individual shall pay the  
20 nonrefundable \$50 [~~\$35~~] annual renewal fee plus a nonrefundable \$25 [~~\$20~~] late-filing fee. Failure to do  
21 so shall result in the expiration of the certificate or registration.

22 (B) If a person's certification or registration lapses or expires, that person shall  
23 immediately cease performance of any LP-gas activities authorized by the certification or registration.

24 (C) If an individual's certificate or registration has been expired for more than  
25 two years [~~from May 31 of the year in which certification lapsed~~], that individual shall comply with the  
26 requirements in §9.10 of this title (relating to Rules Examination) or §9.13 of this title (relating to General  
27 Installers and Repairman Exemption) [~~for a new certificate~~].

28 (2) Upon receipt of the annual renewal fee, [~~and~~] any late-filing fee [~~penalty~~], and the list  
29 of individuals returned pursuant to §9.7 of this title (relating to Application for License and License  
30 Renewal Requirements), AFS [~~AFRED~~] shall verify that all applicable requirements have been met [~~the~~  
31 ~~individual's certification has not been suspended, revoked, or expired for more than two years~~]. After  
32 verification, AFS [~~AFRED~~] shall renew the certification or registration and mail a copy of the  
33 certification or registration card and the individual may continue or resume LP-gas activities authorized  
34 by that certification or registration.

1           (c) Effective [date to be determined before formal proposal], each individual certified through  
2 examination shall retake applicable examinations every six years. Individuals who take and pass an  
3 examination on or after the effective date of this subsection shall retake that examination within six years  
4 and every six years thereafter. Individuals who completed an exam prior to the effective date of this  
5 subsection shall retake the exam before their current continuing education due date and then every six  
6 years thereafter.

7           (1) The individual shall take the examination required for each certification that the  
8 individual holds and will continue to hold or expects to hold in the future. Management-level  
9 examinations are closed book. Employee-level examinations are open book.

10           (2) If the individual passes the reexamination with a score of 75% or better, then the  
11 individual may continue to perform activities covered by that certification.

12           (3) If the individual fails the reexamination with a score of less than 75%, then the  
13 individual shall cease performing all activities covered by that certification until the individual passes the  
14 reexamination.

15           (d) Certificate holders may obtain an additional or replacement copy of their certification or  
16 registration card by submitting a request to AFS and paying a fee of \$5 per card.

17           (e) ~~(d)~~ ~~[Continuing education:]~~ Certificate holders shall successfully complete the continuing  
18 education requirements as specified in §9.51 and §9.52 of this title (relating to General Requirements for  
19 LP-Gas Training and Continuing Education, and Training and Continuing Education [Courses]) to  
20 maintain active status.

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

23           (2) If a certification or registration lapses as specified in paragraph (1) of this subsection,  
24 the individual shall pay the annual renewal fee, the \$25 [~~\$20~~] late fee, and the \$100 course fee as  
25 specified in §9.52(i) of this title.

26           (3) Failure to attend continuing education and/or pay all applicable fees shall result in the  
27 expiration of the certification or registration.

28           (4) If an individual's certification or registration lapses or expires, that person shall  
29 immediately cease performance of any LP-gas activities authorized by the certification or registration.

30           (5) If an individual's certification or registration has been expired for more than two  
31 years, that individual shall comply with the requirements in §9.10 or §9.13 of this title.

32  
33 §9.10. Rules Examination.

34           (a) An individual who passes the applicable rules examination with a score of at least 75% will

1 become a certificate holder. AFS will mail a certification card to the licensee listed on LPG Form 16. If a  
2 licensee is not listed on the form, AFS will mail the card to the individual's personal address.

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

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

8 (3) Certificate holders may obtain an additional or replacement copy of their certification  
9 card by submitting a request to AFS and paying a fee of \$5 per card.

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

11 (1) a completed LPG Form 16; and

12 (2) a check, money order, or online payment receipt showing the applicable  
13 nonrefundable rules examination fee specified in subsection (c) of this section.

14 (c) [(a)] An [In addition to complying with NFPA §§4.4 and 11.2, an] individual who files LPG  
15 Form 16 and pays the applicable nonrefundable examination fee may take the rules examination [at the  
16 Commission's AFRED Training Center, 6506 Bohm Road, Austin, Texas, between the hours of 8:00 a.m.  
17 and 12:00 noon, Monday through Friday, except for state holidays, and at other designated times and  
18 locations around the state. Tuesdays and Thursdays are the preferred days for examinations at the AFRED  
19 Training Center.]

20 (1) Dates and locations of available Commission LP-gas examinations may be obtained  
21 in the Austin offices of AFS [AFRED] and on the Commission's web site, and shall be updated at least  
22 monthly. Examinations may [shall] be conducted at the Commission's AFS Training Center in Austin,  
23 between the hours of 8:00 a.m. and 12:00 noon, Monday through Friday, except for state holidays, and at  
24 other designated times and [in Austin and in other] locations around the state. Individuals or companies  
25 may request in writing that examinations be given in their area. AFS [AFRED] shall schedule its  
26 examinations and locations at its discretion.

27 (2) Except in a case where a conditional qualification has been requested in writing and  
28 approved under §9.17(g) of this title (relating to Designation and Responsibilities of Company  
29 Representatives and Operations Supervisors), the Category E, F, G, I, and J management-level rules  
30 examination shall be administered only in conjunction with the 80-hour or 16-hour training courses  
31 [Category E, F, G, I, and J management-level courses of instruction]. Management-level rules  
32 examinations other than Category E, F, G, I, and J may be administered on any scheduled examination  
33 day.

34 [(3) The Commission may not issue a certification card to an applicant for a

1 ~~management-level certificate that requires completion of a course of instruction until the applicant~~  
2 ~~completes both the required course of instruction and passes the required management-level rules~~  
3 ~~examination.]~~

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

8 (4) [(5)] Exam fees.

9 (A) The nonrefundable management-level rules examination fee [~~(for company~~  
10 ~~representatives and operations supervisors)] is \$80 [\$70].~~

11 (B) The nonrefundable employee-level rules examination fee [~~(for employees~~  
12 ~~other than company representatives or operations supervisors)] is \$50 [\$40].~~

13 (C) The nonrefundable examination fee shall be paid each time an individual  
14 takes an [~~wishes to take the~~] examination.

15 (D) Individuals who register and pay for an 80-hour or 16-hour [~~a Category E, F,~~  
16 ~~G, I, or J~~] training course as specified in §9.51(j)(2)(A) [~~§9.51(f)(2)(A)~~] of this title (relating to General  
17 Requirements for LP-Gas Training and Continuing Education) shall pay the charge specified for the  
18 applicable examination or registration.

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

25 (4) [(6)] Time limits.

26 (A) An [~~Effective June 1, 2008, an~~] applicant shall complete the examination  
27 within the time limit specified in this paragraph.

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

31 (ii) All other [~~categories of~~] management-level [~~examinations~~] and [~~all~~  
32 ~~other~~] employee-level examinations shall be limited to two hours.

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

34 (C) An examinee shall submit the examination and the answer sheet to the

1 examination proctor before or at the end of the established time limit for an examination.

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

4 (5) [(7)] The Commission may offer employee-level LP-Gas Transport Driver, DOT  
5 Cylinder Filling, and Motor/Mobile Fuel Dispensing examinations in Spanish or English.

6 (6) Management-level examinations are closed book. Employee-level examination are  
7 open book. The Commission will provide copies of the publications for an examinee's use.

8 (e) Any person, including an ultimate consumer, transporting LP-gas on a public roadway must  
9 be properly certified.

10 (f) Individuals employed by a Category E, F, I, or J licensee may exchange DOT cylinders which  
11 are filled by a certified individual without being certified if they are trained using a manual that complies  
12 with §9.17(d) of this title (relating to Designation and responsibilities of Company Representatives and  
13 Operations Supervisors). A copy of the manual must be kept at the location with signatures of all  
14 employees trained on the manual.

15 (g) [(b)] This [Table 1 of this] subsection specifies the examinations offered by the Commission.  
16 [Figure: 16 TAC §9.10(b)]

17 (1) Employee-level examinations.

18 (A) The Bobtail Driver examination qualifies an individual to operate a bobtail  
19 or cylinder delivery unit, to perform all of the LP-gas activities authorized by the Transport Driver, DOT  
20 Cylinder Filler [Filling], and Motor/Mobile Fuel Filler examinations, and to perform leak checks and  
21 pressure tests, light appliances, adjust thermocouples, and replace and adjust regulators [and  
22 thermocouples]. The Bobtail examination does not authorize an individual to connect or disconnect  
23 containers, except when performing a pressure test, replacing a regulator, or removing a container from  
24 service.

25 (B) [(2)] The Transport Driver examination qualifies an individual to operate an  
26 LP-gas transport equipped with a container of more than 5,000 gallons water capacity, to load and unload  
27 LP-gas, and connect and disconnect transfer hoses and operate a cylinder delivery unit. The Transport  
28 Driver examination does not authorize an individual to operate a bobtail or to install or repair transport  
29 systems.

30 (C) [(3)] The On-Road Motor Fuel Technician examination qualifies an  
31 individual to install LP-gas motor fuel containers, cylinders, and LP-gas motor fuel systems, and replace  
32 container valves on motorized vehicles licensed to operate on public roadways. The On-Road Motor Fuel  
33 examination does not authorize an individual to fill LP-gas motor or mobile fuel containers.

34 (D) [(4)] The Non-Road Motor Fuel Technician examination qualifies an

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

4 (E) [(5)] The Mobile Fuel Technician examination qualifies an individual to  
5 install LP-gas mobile fuel containers, cylinders, and LP-gas mobile fuel systems, and replace container  
6 valves on mobile fuel equipment such as trailers, catering trucks, mobile kitchens, tar kettles, hot oil units,  
7 auxiliary engines and similar equipment. The Mobile Fuel examination does not authorize an individual  
8 to fill LP-gas mobile fuel containers or cylinders.

9 (F) [(6)] The DOT Cylinder Filler [~~Filling~~] examination qualifies an individual  
10 to inspect, requalify, fill, disconnect and connect cylinders, including industrial truck cylinders, and to  
11 exchange cylinder valves. The DOT Cylinder Filling examination does not authorize an individual to fill  
12 ASME motor or mobile fuel containers.

13 (G) [(7)] The Recreational Vehicle Technician examination qualifies an  
14 individual to install LP-gas motor or mobile fuel containers, including cylinders, and to install and repair  
15 LP-gas systems on recreational vehicles. The Recreational Vehicle examination does not authorize an  
16 individual to fill LP-gas containers.

17 (H) [(8)] The Service and Installation Technician examination qualifies an  
18 individual to perform all LP-gas activities related to stationary LP-gas systems, including LP-gas  
19 containers, appliances, and stationary engines. The Service and Installation examination does not  
20 authorize an individual to fill containers or operate an LP-gas transport.

21 (I) [(9)] The Appliance Service and Installation Technician examination  
22 qualifies an individual to perform all LP-gas activities related to appliances, including installing, repairing  
23 and converting appliances, installing and repairing connectors from the appliance gas stop through the  
24 venting system, and to perform leak checks on the new or repaired portion of an LP-gas system. The  
25 Appliance Service and Installation examination does not authorize an individual to install a container,  
26 install or repair piping upstream of and including the appliance gas stop, or to install, repair or adjust  
27 regulators.

28 (J) [(10)] The Motor/Mobile Fuel Filler [~~Dispensing~~] examination qualifies an  
29 individual to inspect and fill motor or mobile fuel containers on vehicles, including recreational vehicles,  
30 cars, trucks, and buses. The Motor/Mobile Fuel Dispensing examination does not authorize an individual  
31 to fill LP-gas cylinders or ASME stationary containers.

32 (K) The Cylinder Delivery Unit Driver examination qualifies an individual to  
33 operate a unit that is registered with the department to transport DOT cylinders filled with LP-gas,  
34 including loading and unloading LP-gas in cylinders. The cylinder delivery unit driver examination does

1 not authorize an individual to operate a bobtail or transport, or to fill, connect, or disconnect DOT  
2 cylinders.

3 (2) Management-level examinations.

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

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

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

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

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

19 (F) The Category D examination qualifies an individual to sell, service, and  
20 install containers, except motor fuel containers, to service, install and repair piping and certain appliances  
21 as defined by rule, excluding recreational vehicle appliances and systems and motor fuel and recreational  
22 vehicle systems, and to sell, service, install and repair LP-gas containers, systems and appliances in  
23 manufactured homes.

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

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

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

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

1                   (K) The Category I examination qualifies an individual to operate any service  
2 station and cylinder activity set out in Category F and G.

3                   (L) The Category J examination qualifies an individual to sell, transport, install  
4 and connect LP-gas in cylinders, to operate a cylinder filling facility, including cylinder filling and the  
5 replacement of cylinder valves, and to operate an LP-gas service station as set out in subparagraph (I) of  
6 this paragraph.

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

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

11                   (O) The Category L1 examination qualifies an individual to sell and install  
12 LP-gas motor fuel containers, cylinders and LP-gas motor fuel systems, and to replace container valves  
13 on motorized vehicles licensed to operate on public roadways.

14                   (P) The Category L2 examination qualifies an individual to sell and install  
15 LP-gas motor fuel containers, cylinders and LP-gas motor fuel systems, and to replace container valves  
16 on motorized equipment and vehicles that are not licensed to operate on public roadways, including but  
17 not limited to, industrial forklift trucks and lawnmowers.

18                   (Q) The Category L3 examination qualifies an individual to sell and install  
19 LP-gas mobile fuel containers, cylinders and LP-gas mobile fuel systems, and to replace container valves  
20 on mobile fuel equipment such as trailers, catering trucks, mobile kitchens, tar kettles, hot oil units,  
21 auxiliary engines, and similar equipment.

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

25                   (S) The Category N examination qualifies an individual to service and install  
26 containers that supply fuel to manufactured housing, and to install, repair, and service appliances and  
27 pipng systems for manufactured housing.

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

33                   (U) The Category P examination qualifies an individual to operate a portable  
34 cylinder exchange service, where LP-gas is sold in portable cylinders whose LP-gas capacity does not

1 exceed 21 pounds, where the portable cylinders are not filled on-site, and where no other LP-gas activity  
2 requiring a license is conducted.

3 (f) [(e)] Within 15 calendar days of the date an individual takes an examination, AFS [AFRED]  
4 shall notify the individual of the results of the examination.

5 [(1)] If the examination is graded or reviewed by a testing service, AFS [AFRED] shall  
6 notify the individual of the examination results within 14 days of the date AFS [AFRED] receives the  
7 results from the testing service. If the notice of the examination results will be delayed for longer than 90  
8 days after the examination date, AFS [AFRED] shall notify the individual of the reason for the delay  
9 before the 90th day. AFS [AFRED] may require a testing service to notify an individual of the  
10 individual's examination results.

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

13 [(3) An individual who has been issued a certification card shall make the card readily  
14 available and shall present the card to any Commission employee or agent who requests proof of  
15 certification.]

16 (g) [(d)] Failure of any examination shall immediately disqualify the individual from performing  
17 any LP-gas related activities covered by the examination which is failed, except for activities covered by  
18 a separate examination which the individual has passed. [If requested by an individual who failed the  
19 examination, AFRED shall furnish the individual with an analysis of the individual's performance on the  
20 examination.]

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

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

25 (3) If requested by an individual who failed the examination, AFS shall furnish the  
26 individual with an analysis of the individual's performance on the examination.

27 (h) The Commission may not issue a certification card to an applicant for a management-level  
28 examination that requires completion of a course of instruction until the applicant completes both the  
29 required course of instruction and passes the required management-level rules examination.

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

33  
34 §9.11. Transfer of Certified Employees [Previously-Certified Individuals].

1           (a) A licensee or ~~[, an]~~ ultimate consumer~~[, or a state agency, county, municipality, school~~  
2 ~~district, or other governmental subdivision]~~ shall notify AFS ~~[AFRED]~~ when a certificate holder ~~[certified~~  
3 ~~individual]~~ is hired by filing LPG Form 16A and a nonrefundable \$15 ~~[\$10]~~ fee with AFS ~~[AFRED]~~  
4 within 10 calendar days, or in lieu of LPG Form 16A ~~[that form]~~, the \$15 ~~[\$10]~~ fee and a written notice  
5 including:

6                   (1) the employee's name as recorded with the Commission; ~~[on a current driver's license~~  
7 ~~or Texas Department of Public Safety identification card,]~~

8                   (2) the licensee's license number and mailing address;

9                   (3) the employee's mailing address; and

10                   (4) the employee's [employee] social security number or RRC identification number[;  
11 names of the newly-hired certified employee's previous and new employers, and types of LP-gas work to  
12 be performed by the newly-hired certified employee. A state agency, county, municipality, school district,  
13 or other governmental subdivision is exempt from this subsection if such entity chooses not to certify its  
14 employees who perform LP-gas activities].

15           (b) Upon approval of the documents submitted under subsection (a) of this section, AFS will mail  
16 a copy of the certification or registration card to the new employer.

17  
18 §9.12. Trainees.

19           (a) A licensee or ultimate consumer may employ an individual as a trainee for a period not to  
20 exceed 45 calendar days without that individual having successfully completed the rules examination as  
21 specified in §9.10 of this title (relating to Rules Examination) subject to the following conditions.

22                   (1) The trainee shall be directly and individually supervised at all times by an individual  
23 who has successfully completed the Commission's rules examination for the areas of work being  
24 performed by the trainee.

25                   (2) A trainee who has been in training for a total period of 45 calendar days, in any  
26 combination and with any number of employers, shall cease to perform any LP-gas activities for which  
27 the trainee is not currently certified until the trainee successfully completes the rules examination.

28           (b) A trainee who successfully completes the rules examination shall comply with the training  
29 requirements for a new certification ~~[certificate]~~ in §9.51 and §9.52 of this title (relating to General  
30 Requirements for LP-Gas Training and Continuing Education; and Training and Continuing Education  
31 ~~[Courses]~~).

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

34           ~~[(d) A trainee who has been in training for a total period of 45 calendar days, in any combination~~

1 ~~and with any number of employers, shall cease to perform any LP-gas activities for which he or she is not~~  
2 ~~currently certified.]~~

3  
4 §9.13. General Installers and Repairman Exemption.

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

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

13 (2) submits a properly completed LPG Form 16B;

14 (3) submits the required \$75 registration fee, except as described in subsection (g) of this  
15 section;

16 (4) [(2)] submits a legible copy [photocopy] of a current Air Conditioning and  
17 Refrigeration Contractor or Master or Journeyman Plumbers certificate;

18 (5) [(3)] submits a legible copy [photocopy] of a picture state-issued identification card  
19 or driver's license; and

20 (6) pays the course registration fee and attends a 16-hour course as described in §9.52 of  
21 this title (relating to Training and Continuing Education).

22 ~~[(4) submits a properly completed LPG Form 16B; and]~~

23 ~~[(5) pays the \$50 registration fee, except as described in subsection (g) of this section.]~~

24 (b) This exemption does not become effective until the registration card [~~registration/examination~~  
25 ~~exemption certificate~~] is issued by AFS [~~AFRED~~].

26 (1) AFS will review the application and submitted documentation and will notify the  
27 applicant in writing if deficiencies are found with the application, fees, and/or submitted documentation.

28 (2) If an applicant receives notice of deficient items, the applicant must respond with the  
29 required information and/or documentation within 30 days of the written notice. Failure to respond will  
30 result in withdrawal of the application.

31 (3) If all requirements are met, AFS will mail a registration card to the address listed on  
32 the application.

33 (4) An additional or replacement copy of the registration card may be obtained by  
34 submitting a request to AFS and paying a fee of \$5 per card.

1 (c) The ~~registration/examination~~ exemption accrues to the individual and is nontransferable. An  
2 exemption does not allow other individuals to perform LP-gas activities under the supervision of the  
3 registered individual. Each person performing LP-gas activities must be registered or certified by the  
4 examination in accordance with §9.10 of this title (relating to Rules Examination).

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

8 (e) In order to maintain an exemption, each individual issued a registration card  
9 [registration/examination exemption certificate] shall renew in accordance with §9.9 of this title (relating  
10 to Requirements for Certificate Holder Renewal) ~~[pay a \$20 annual renewal fee to AFS [AFRED] on or~~  
11 ~~before May 31 of each year]. Failure to properly renew [pay the annual renewal fee by May 31] shall~~  
12 ~~result in a lapsed exemption. [If an individual's exemption lapses, that individual shall cease all LP-gas~~  
13 ~~activities until the exemption has been renewed. To renew a lapsed exemption, the applicant shall pay the~~  
14 ~~\$20 annual renewal fee plus a \$20 late-filing fee. Failure to do so shall result in the expiration of the~~  
15 ~~registration/examination exemption. If an individual's registration/examination exemption has been~~  
16 ~~expired for more than two years, that individual shall complete all requirements necessary to apply for a~~  
17 ~~new exemption.]~~

18 (f) Any individual who is issued an exemption under this section agrees to comply with the  
19 current edition of the LP-Gas Safety Rules. In the event the exempt individual surrenders, fails to renew,  
20 or has the license ~~[licensed]~~ revoked either by the Texas State Board of Plumbing Examiners or the Texas  
21 Department of Licensing and Regulation, that individual shall immediately cease performing any LP-gas  
22 activities granted by this section. ~~[The exemption certificate shall be returned immediately to AFRED and~~  
23 ~~all rights and privileges surrendered.]~~

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

28  
29 §9.14. Military Fee Exemption.

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

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

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

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

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

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

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

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

11 and either

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15  
16 §9.15. Penalty Guidelines for LP-Gas Safety Violations. **REPEAL (See §9.5)**

17 §9.16. Hearings for Denial, Suspension, or Revocation of Licenses or Certificates. **REPEAL (See §9.5)**

18  
19 §9.17. Designation and Responsibilities of Company Representatives and Operations Supervisors.

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

22 (1) A licensee maintaining one or more outlets shall file LPG Form 1 with AFS listing the  
23 physical location of the first outlet and [~~LP-Gas Operations~~] designating the company representative for  
24 the license and [~~and/or~~] LPG Form 1A designating the physical location and operations supervisor for  
25 each additional outlet.

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

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

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

30 (B) the certified employee's and/or operations supervisor's telephone number is  
31 posted at the outlet on a sign with lettering at least 3/4-inch high, visible and legible during normal  
32 business hours [~~at all times~~]; and

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

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

4 (5) A licensee shall immediately notify AFS [LP-Gas Operations] in writing upon  
5 conclusion of employment [termination], for whatever reason, of its company representative or any  
6 operations supervisor and shall at the same time designate a replacement [~~by submitting a new LPG Form~~  
7 ~~1 for a new company representative or a new LPG Form 1A for a new operations supervisor~~].

8 (6)~~(A)~~ A licensee shall cease all LP-gas activities if it no longer employs a [~~at the~~  
9 ~~termination of its company representative, there is no other~~] qualified company representative [~~of the~~  
10 ~~licensee~~] who complies [has complied] with the Commission's requirements. A licensee shall not resume  
11 LP-gas activities until such time as it has a properly qualified company representative or it has been  
12 granted an extension of time in which to comply as specified in subsections (e) or (f)~~(subsection g)~~ of  
13 this section.

14 (7)~~(B)~~ A licensee shall cease LP-gas activities at an outlet if it no longer employs a [~~at~~  
15 ~~the termination of its operations supervisor for that outlet, there is no other~~] qualified operations  
16 supervisor at that outlet who complies [~~has complied~~] with the Commission's requirements. A licensee  
17 shall not resume LP-gas activities at that outlet until such time as it has a properly qualified operations  
18 supervisor or it has been granted an extension of time in which to comply as specified in subsections (e)  
19 or (f) [~~subsection g~~] of this section.

20 (b) Company representative. A company representative shall [~~comply with the following~~  
21 ~~requirements~~]:

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

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

27 (3) have a working knowledge of the licensee's LP-gas activities to ensure [~~insure~~]  
28 compliance with the LP-Gas Safety Rules;

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

33 (5) complete any required training and/or continuing education required in §§9.51 and  
34 9.52 of this title (relating to General Requirements for LP-Gas Training and Continuing Education, and

1 Training and Continuing Education, respectively);

2 (6) [(5)] comply with the work experience or training requirements in subsections (e)  
3 or(f) [subsection (g)] of this section, if applicable;

4 (7) [(6)] be directly responsible for all employees performing their assigned LP-gas  
5 activities, unless an operations supervisor is fulfilling this requirement; and

6 (8) [(7)] submit any additional information as deemed necessary by AFS [LP-Gas  
7 Operations].

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

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

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

16 (3) complete any required training and/or continuing education required in §§9.51 and  
17 9.52 of this title; and

18 (4) [(3)] be directly responsible for actively supervising the LP-gas activities of the  
19 licensee at the designated outlet.

20 (d) Category P licensees.

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

25 (2) In lieu of an operations supervisor requirement for a Category P license, the Category  
26 E, F, I, or J [-or other] licensee providing the Category P licensee with portable cylinders for exchange  
27 shall be required to:

28 (A) [(1)] prepare a manual containing, at a minimum, the following:

29 (i) [(A)] a description of the basic characteristics and properties of LP-  
30 gas;

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

33 (iii) [(C)] complete instructions on how to properly transport cylinders in  
34 vehicles;

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

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

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

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

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

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

14 (x) ~~(J)~~ a requirement that any accidents be reported to the Category E,  
15 F, I, or J, ~~or other~~ licensee who prepares the manual, and detailed procedures for reporting any  
16 accidents;

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

19 (xii) ~~(L)~~ all provisions of Subchapter H ("Enforcement") of Chapter  
20 113 of the Texas Natural Resources Code;

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

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

26 (B) ~~(2)~~ provide at each outlet of the Category P licensee a copy of the manual  
27 in print or electronic format [for display at each outlet or location of the Category P licensee], which shall  
28 be accessible at all times by employees exchanging cylinders; and

29 (C) ~~(3)~~ provide training as to the contents of the manual to each employee who  
30 may be engaged in any activities covered by the Category P license at all outlets ~~[or locations]~~ of the  
31 Category P licensee and maintain records regarding the employees of the Category P licensee who have  
32 been trained~~;~~ and]

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

1 2004].

2 (3) ~~(e)~~ The Category P licensee shall ~~[is responsible for the following]:~~

3 (A) ~~(1)~~ ensure ~~[insuring]~~ that each employee who is involved with the activities  
4 covered by the Category P license is knowledgeable about the contents of the manual and has signed and  
5 dated the signature page of the manual; and

6 (B) ~~(2)~~ ensure ~~[insuring]~~ that each such employee is aware of the location of the  
7 manual and can show the manual to employees of the Commission upon their request.

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

13 (e) For good cause shown, AFS may grant a temporary exception of 30 days or less to the  
14 examination requirements for company representatives and operations supervisors. Good cause includes  
15 but is not limited to death of a sole proprietor or partner. Applicants for temporary exceptions shall  
16 comply with applicable safety requirements and submit to AFS information showing the exception will  
17 not be hazardous to the public.

18 (f) ~~(g)~~ Work experience substitution for Category E, F, G, I, and J.

19 (1) The AFS ~~[AFRED]~~ director may, upon written request, allow a conditional  
20 qualification for a Category E, F, G, I, or J company representative or operations supervisor who passes  
21 the applicable management-level rules examination provided that the individual attends and successfully  
22 completes the next available 80-hour or 16-hour ~~[Category E, F, G, I, or J management-level]~~ training  
23 course, or a subsequent 80-hour or 16-hour ~~[Category E, F, G, I, or J management-level]~~ training course  
24 agreed on by the AFS ~~[AFRED]~~ director and the applicant.

25 (A) The written request shall include a description of the individual's LP-gas  
26 experience and other related information in order that the AFS ~~[AFRED]~~ director may properly evaluate  
27 the request. ~~[If the individual fails to complete the training requirements within the time granted by the  
28 AFRED director, the conditional qualification shall immediately be voided and the conditionally qualified  
29 company representative or operations supervisor shall immediately cease all LP-gas activities.]~~

30 (B) Applicants for company representative or operations supervisor who have  
31 less than three years' experience or experience which is not applicable to the category for which the  
32 individual is applying shall not be granted a conditional qualification and shall comply with the training  
33 requirements in §9.52 of this title ~~[(relating to Training and Continuing Education Courses)]~~ prior to AFS  
34 ~~[AFRED]~~ issuing a certification card ~~[certificate]~~.

1                   (2) If the individual fails to complete the training requirements within the time granted  
2 by the AFS director, the conditional qualification shall immediately be voided and the conditionally  
3 qualified company representative or operations supervisor shall immediately cease all LP-gas activities.  
4

5 §9.18. Reciprocal Examination Agreements with Other States.

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

9           (b) A state that is interested in a reciprocal agreement with Texas shall provide a copy of its  
10 examination used to qualify transport drivers to AFS [~~AFRED~~]. AFS [~~AFRED~~] shall provide a copy of  
11 the Texas examination to the other state's LP-gas authority. The states shall review the materials to ensure  
12 that they contain substantially equivalent requirements. If each state accepts the requirements of the other  
13 state, both states shall sign the reciprocal agreement.

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

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

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

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

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

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

29                   (1) Individuals from other participating states shall remit to AFS: [~~AFRED~~]

30                           (A) a \$50 [~~the~~] nonrefundable reciprocal [~~employee-level rules examination~~] fee;

31                           (B) [~~and~~] the annual certificate renewal fee of \$50; and [~~specified in §9.10 and~~  
32 ~~§9.9 of this title (relating to Rules Examination, and Requirements for Certificate Renewal, respectively)]~~

33                           (C) the late renewal fee of \$25 if renewed after the certification expires.

34                   (2) Individuals from Texas who apply for a reciprocal examination exemption in other

1 states shall pay to the other state any fees specified by that state.

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

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

7 (2) a completed LPG Form 16R along with the \$50 reciprocal fee. Applicants from other  
8 states shall provide their Social Security numbers to AFS [~~AFRED~~] for purposes of record-keeping and to  
9 comply with the requirements in Texas Family Code Annotated §231.302(c) (Vernon 1996), which  
10 mandates disclosure of Social Security numbers by applicants to assist in the administration of laws  
11 relating to child support. Social Security numbers are subject to or excepted from disclosure to the public  
12 in accordance with Texas Government Code, Chapter 552.

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

16 (4) A copy of the applicant's valid driver's license.

17 (e) AFS will review the application, fees paid and submitted documentation.

18 (1) If deficiencies are found with the application, fees and/or submitted documentation  
19 AFS will notify the applicant in writing of the deficiencies.

20 (2) If an applicant receives notice of deficient items the applicant must resolve the  
21 deficiencies within 30 days of the written notice. Failure to respond will result in withdrawal of the  
22 application.

23 (3) If all requirements are met AFS will mail a certification card to the address listed on  
24 the application.

25 (4) Certificate holders may obtain an additional or replacement copy of the certification  
26 card by submitting to AFS a request for a copy of the certification card and paying a fee of \$5 per card.

27 (f) [~~(e)~~] Individuals from other states who apply for a reciprocal examination exemption from  
28 Texas either shall be employed by a company that is properly and currently licensed in Texas or shall  
29 themselves fulfill all other licensing requirements in the *LP-Gas Safety Rules*.

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

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

34 (2) If a participating state has an enforcement action against an individual with a

1 reciprocal examination exemption, that state shall inform the other state within 14 calendar days of  
2 initiating the action.

3 (3) A state may suspend, revoke, or deny a reciprocity renewal or an individual's  
4 reciprocal examination exemption, as specified in §9.5 (relating to Penalty Guidelines and Enforcement)  
5 [~~§9.16 of this title (relating to Hearings for Denial, Suspension, or Revocation of Licenses or~~  
6 ~~Certificates)~~] and shall notify the other state and all individuals holding the reciprocal examination  
7 exemption within 14 calendar days of such suspension, revocation, or denial.

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

11  
12 §9.21. Franchise Tax Certification and Assumed Name Certificates.

13 (a) An applicant for an original or renewal license that is a corporation or limited liability  
14 company shall be in good standing with the Comptroller of Public Accounts of the State of Texas. The  
15 licensee shall provide a copy of the Franchise Tax Statement from the Comptroller of Public Accounts  
16 showing "In Good Standing."

17 (b) All applicants for license or license renewal shall list on LPG Form 1 all names under which  
18 LP-gas related activities requiring licensing are to be conducted. Any company performing LP-gas  
19 activities under an assumed name ("DBA" or "doing business as" [~~name~~]) shall file copies of the assumed  
20 name certificates which are required to be filed with the respective county clerk's office and/or the  
21 Secretary of State's Office [~~secretary of state's office~~] with AFS [~~LP-Gas Operations~~].

22  
23 §9.22. Changes in Ownership, Form of Dealership, or Name of Dealership.

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

25 (1) Transfer of dealership or outlet by sale, lease, or gift. The purchaser, lessee, or donee  
26 of any dealership or outlet shall have a current and valid license authorizing the LP-gas activities to be  
27 performed at the dealership or outlet or shall apply for and be issued an LP-gas license prior to engaging  
28 in any LP-gas activities which require a license. The purchaser, lessee, or donee shall notify AFS [~~LP-Gas~~  
29 ~~Operations~~] by filing a properly completed LPG Form 1 prior to engaging in any LP-gas activities at that  
30 dealership or outlet which require an LP-gas license.

31 (2) Other changes in ownership. A change in members of a partnership occurs upon the  
32 death, withdrawal, expulsion, or addition of a partner. Upon the death of a sole proprietor or partner, or  
33 the dissolution of a corporation or partnership, [~~or~~] any change in the members of a partnership, or other  
34 change in ownership not specifically provided for in this section, an authorized representative of the

1 previously existing dealership or of the successor in interest shall notify AFS [~~LP-Gas Operations~~] in  
2 writing and shall immediately cease all LP-gas activities of the previously existing dealership which  
3 require an LP-gas license and shall not resume until LP-Gas Operations issues an LP-gas license to the  
4 successor in interest.

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

10 (c) Dealership name change. A licensee which changes its name shall not be required to obtain a  
11 new license but shall immediately notify AFS [~~LP-Gas Operations~~] as follows prior to engaging in any  
12 LP-gas activities under the new name. If the change in name is also a change in entity type or results in a  
13 different franchise tax ID, then a new license shall be required. If a new license is not required, the [~~The~~]  
14 licensee shall file:

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

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

18 (3) certificates of insurance or affidavits in lieu of insurance if [~~where~~] permitted by  
19 §9.26 of this title (relating to Insurance and Self-Insurance Requirements) or both; and

20 (4) any other forms required by AFS [~~an amended LPG Form 7 to transfer any LP-gas~~  
21 ~~transport or container delivery unit, including any fees specified in §9.202 of this title (relating to~~  
22 ~~Registration and Transfer of LP-Gas Transports or Container Delivery Units); and]~~

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

24 (d) Company representative and operations supervisor. In all changes of ownership, form of  
25 dealership, or name of dealership, the resulting entity shall have a properly certified company  
26 representative for the license and an operations supervisor, if required, at each outlet and as outlined in  
27 §9.17 of this title (relating to Designation and Responsibilities of Company Representatives and  
28 Operations Supervisors).

29 (e) For good cause shown [~~In the event of a death of a sole proprietor or partner~~], the AFS  
30 [~~AFRED~~] director may grant a temporary exception of [~~not to exceed~~] 30 [~~calendar~~] days or less to the  
31 examination requirement for company representatives and operations supervisors. Good cause includes  
32 but is not limited to the death of a sole proprietor or partner. An applicant for a temporary exception shall  
33 [~~agree to~~] comply with [~~all~~] applicable safety requirements and submit to AFS information showing the  
34 exception will not be hazardous to the public.

1 §9.23. Limitation/Avoidance of Licensee Liability.

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

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

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

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

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

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

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

19  
20 §9.26. Insurance and Self-Insurance Requirements.

21 (a) A licensee shall not perform any licensed activity under §9.6 of this title (relating to Licenses  
22 and Fees) unless insurance coverage required by this section is in effect. LP-gas licensees or applicants  
23 for license shall comply with the minimum amounts of insurance specified in Table 1 of this section or  
24 with the self-insurance requirements in subsection (j) [(†)] of this section. Before AFS [LP-Gas  
25 Operations] grants or renews a license, an applicant shall submit either:

26 Figure: 16 TAC §9.26(a)

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

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

33 (b) Each licensee shall file LPG Form 999 or other written notice with AFS [LP-Gas Operations]  
34 at least 30 calendar days before the cancellation of any insurance coverage. The 30-day period

1 commences on the date the notice is actually received by AFS [~~LP-Gas Operations~~].

2 (c) If a licensee's insurance policy does not cover each individual performing LP-gas activities  
3 for the licensee, each individual who is not covered under the insurance policy must obtain his or her  
4 own license.

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

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

18 (f) [(g)] A licensee or applicant for a license that does not engage in or contemplate engaging in  
19 any LP-gas activities [~~operations~~] that would be covered by completed operations or products liability  
20 insurance, or both, may file LPG Form 998B in lieu of a completed operations and/or products liability  
21 insurance form. The licensee or applicant for a license shall file the required insurance form with AFS  
22 [~~LP-Gas Operations~~] before engaging in any operations that require completed operations and/or products  
23 liability insurance.

24 (g) [(h)] A licensee or applicant for a license that does not engage in or contemplate engaging in  
25 any operations that would be covered by general liability insurance may file LPG Form 998B in lieu of  
26 filing a general liability insurance form. The licensee or applicant for a license shall file the required  
27 insurance form with AFS [~~LP-Gas Operations~~] before engaging in any operations that require general  
28 liability insurance.

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

33 (i) [(j)] A state agency or institution, county, municipality, school district, or other governmental  
34 subdivision shall meet the requirements of this section for workers' compensation, general liability, and/or

1 motor vehicle liability insurance. The requirements may be met by filing LPG Form 995 with AFS [~~LP-~~  
2 ~~Gas Operations~~] as evidence of self-insurance, if permitted by the Texas Labor Code, Title 5, Subtitle C,  
3 and Texas Natural Resources Code, §113.097.

4 (j)[~~(i)~~] Self-insurance requirements.

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

10 (2) A licensee or license applicant desiring to self-insure shall file with AFS [~~LP-Gas~~  
11 ~~Operations~~] a properly completed LPG Form 28, Notice of Election to Self-Insure [~~(created 11/02)~~] and a  
12 properly completed LPG Form 28-A, Bank Declarations Regarding Irrevocable Letter of Credit [~~(created~~  
13 ~~11/02)~~]. The licensee or license applicant shall attach to the LPG Form 28-A any documentation  
14 necessary to show that the bank issuing the irrevocable letter of credit meets the requirements in  
15 paragraph (5)(E) of this subsection.

16 (3) The irrevocable letter of credit shall be in an amount that is no less than the total of all  
17 minimum insurance coverage amounts required by the Commission in [~~the~~] Table 1 in subsection (a) of  
18 this section for every coverage for which the licensee or license applicant seeks to self-insure.

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

21 (A) the expiration date of the license; or

22 (B) the effective date of insurance coverage.

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

24 (A) be irrevocable during its term;

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

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

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

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

33 (i) Bank management shall attest that the bank is not subject to any  
34 outstanding written enforcement action, agreement, order, capital directive, or prompt corrective action

1 directive issued by a state or federal bank regulatory agency;

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

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

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

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

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

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

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

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

22 (k) ~~(j)~~ Each licensee shall promptly notify AFS ~~[LP-Gas Operations]~~ of any change in insurance  
23 coverage or insurance carrier by filing a properly completed ~~[revised]~~ Acord™ form; other form approved  
24 by the Texas Department of Insurance that has been prepared and signed by the insurance carrier  
25 containing all required information; or documents demonstrating the applicant's compliance with the self-  
26 insurance requirements set forth in subsection ~~(j)~~ ~~(i)~~ of this section. Failure to promptly notify AFS ~~[LP-~~  
27 Gas Operations] of a change in the status of insurance coverage or insurance carrier may result in an  
28 enforcement action and an administrative penalty.

29  
30 §9.27. Application for an Exception to a Safety Rule.

31 (a) A person may apply for an exception to the provisions of this chapter by filing LPG Form 25  
32 along with supporting documentation, and a ~~\$100~~ ~~[\$50]~~ filing fee with AFS ~~[LP-Gas Operations]~~.

33 (b) The application shall contain the following:

34 (1) the section number of any ~~[applicable]~~ rules for which an exception is being

1 requested;

2 (2) the type of relief desired, including the exception requested and any information  
3 which may assist AFS [LP-Gas Operations] in comprehending the requested exception;

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

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

10 (A) a site drawing;

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

13 (C) a plat from the applicable appraisal district indicating the ownership of the  
14 land; ~~[and]~~

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

17 (E) a copy of any applicable permits required by the city and/or county in which  
18 the proposed installation will be located; and

19 (5) the name, business address, and telephone number of the applicant and of the  
20 authorized agent, if any.[:]

21 ~~[(6) an original signature in ink by the party filing the application or by the authorized~~  
22 ~~representative;]~~

23 ~~[(7) a list of the names and addresses of all interested entities as defined in subsection (c)~~  
24 ~~of this section.]~~

25 ~~[(c) Notice of the application for an exception to a safety rule:]~~

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

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

34 ~~[(A) persons and businesses owning or occupying property adjacent to the site;]~~

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

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

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

5 ~~[(A) the Texas Department of Public Safety; and]~~

6 ~~[(B) all processed gas loading and unloading facilities utilized by the applicant.]~~

7 ~~[(4) LP-Gas Operations may require an applicant to give notice to persons in addition to~~  
8 ~~those listed in paragraphs (2) and (3) of this subsection if doing so will not prejudice the rights of any~~  
9 ~~entity.]~~

10 ~~[(d) Objections to the requested exception shall be in writing, filed at LP-Gas Operations within~~  
11 ~~18 calendar days of the postmark of the application, and shall be based on facts that tend to demonstrate~~  
12 ~~that, as proposed, the exception would have an adverse effect of public health, safety, or welfare. LP-Gas~~  
13 ~~Operations may decline to consider objections based solely on claims of diminished property or esthetic~~  
14 ~~values in the area.]~~

15 ~~(c) [(e)] AFS [LP-Gas Operations] shall review the application within 21 business days of receipt~~  
16 ~~of the application. [If LP-Gas Operations does not receive any objections from any affected entities as~~  
17 ~~defined in subsection (c) of this section, the]~~

18 ~~(1) The AFS [LP-Gas Operations] director may administratively grant the exception if the~~  
19 ~~director determines that the installation, as proposed, does not adversely affect the health or safety of the~~  
20 ~~public. AFS [LP-Gas Operations] shall notify the applicant in writing by the end of the 21-day review~~  
21 ~~period and, if approved, the installation shall be installed within one year from the date of approval. [LP-~~  
22 ~~Gas Operations shall also advise the applicant at the end of the objection period as to whether any~~  
23 ~~objections were received and whether the applicant may proceed:]~~

24 ~~(2) If the AFS [LP-Gas Operations] director denies the exception, AFS [LP-Gas~~  
25 ~~Operations] shall notify the applicant in writing, outlining the reasons and any specific deficiencies.~~

26 ~~(3) The applicant may modify the application to correct the deficiencies and resubmit the~~  
27 ~~application along with a \$50 [\$30] resubmission fee, or may request a hearing on the matter.~~

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

30 ~~(B) [(f)] [A hearing shall be held when LP-Gas Operations receives an objection~~  
31 ~~as set out in subsection (d) from any affected entity, or when the applicant requests one following an~~  
32 ~~administrative denial:] AFS [LP-Gas Operations] shall forward the request for hearing to the Hearings~~  
33 ~~Division. [mail the notice of hearing to the applicant and all objecting entities] by certified mail, return~~  
34 ~~receipt requested, at least 21 calendar days prior to the date of the hearing. Hearings will be held in~~

1 ~~accordance with the Texas Government Code, Chapter 2001, et seq., Chapter 1 of this title (relating to~~  
2 ~~Practice and Procedure), and this chapter.]~~

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

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

9 (f) [(i)] A request for an exception shall expire if it is inactive for three months after the date of  
10 the letter in which the applicant was notified by AFS [LP-Gas Operations] of an incomplete request.  
11 Additional time may be granted upon request if needed to generate engineering results or calculations.  
12 The applicant may restart the application process [resubmit an application request].

13  
14 §9.28. Reasonable Safety Provisions.

15 If an LP-gas installation, equipment, or appurtenances not specifically covered by the LP-Gas  
16 Safety Rules has been or will be installed, AFS [LP-Gas Operations] may [~~shall apply and~~] require a  
17 licensee or applicant to comply with additional or alternative [~~any~~] reasonable safety provisions to ensure  
18 the LP-gas installation is safe for LP-gas service. If the affected licensee or applicant [~~entity~~] disagrees  
19 with AFS' requirements [~~LP-Gas Operations' determination~~], the licensee or applicant [~~entity~~] may  
20 request a hearing. The installation shall not be placed into LP-gas service [~~operation~~] until the  
21 Commission has determined that the installation is safe for LP-gas service.

22  
23 §9.31. LP-Gas Regional Supply Emergency Response.

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

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

- 34 (1) notification from LP-gas storage facilities as appropriate, including, but not limited to,

1 storage facilities located at gas processing plants, pipeline terminals, petroleum refineries, and inland salt  
2 domes, that they are attaining maximum LP-gas withdrawal rates;

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

5 (3) weather data.

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

10  
11 §9.32. Consumer Safety Notification.

12 (a) A person holding a license to install or repair an LP-gas system who sells, installs, or repairs  
13 an LP-gas system, piping, or other equipment that is part of a system, or an appliance that is connected or  
14 attached to a system shall provide the following notice to the purchase or owner of the system, piping, or  
15 other equipment or appliance: "WARNING: Flammable Gas. The installation, modification, or repair of  
16 an LPG system by a person who is not licensed or registered to install, modify, or repair an LPG system  
17 may cause injury, harm, or loss. Contact a person licensed or registered to install, modify, or repair an  
18 LPG system. A person licensed to install or repair an LPG system may not be liable for damages caused  
19 by the modification of an LPG system by an unlicensed person except as otherwise provided by  
20 applicable law."

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

24  
25 §9.35. Written Procedure for LP-Gas Leaks.

26 (a) Each [~~In addition to NFPA 58 §14.4.9.1, each~~] licensee shall maintain a written procedure to  
27 be followed when any employee receives notification of a possible leak. The licensee shall ensure that all  
28 employees are familiar with the procedure and shall authorize employees to implement the procedure  
29 without management oversight. The written procedure shall be available to emergency response agencies  
30 as specified in NFPA 58, ~~§6.27.2~~ [~~§6.25.2 and as stated in Table 1 of §9.403 of this title, (relating to~~  
31 ~~Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional~~  
32 ~~Requirements~~].

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

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

5 Figure: 16 TAC §9.35(c) (No change.)  
6

7 §9.36. Report of LP-Gas Incident/Accident.

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

11 (1) caused a death or any personal injury requiring hospitalization; ~~[or]~~

12 (2) required taking an operating facility out of service; ~~[or]~~

13 (3) resulted in unintentional gas ignition requiring an emergency response; ~~[or]~~

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

15 ~~[or]~~

16 (5) caused an estimated damage to the property of the operator, others, or both totaling  
17 \$50,000 ~~[\$5,000]~~ or more, including gas loss; ~~[or]~~

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

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

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

24 (1) name of reporting operator;

25 (2) location of leak or incident;

26 (3) date and time of incident;

27 (4) fatalities and/or personal injuries;

28 (5) phone number of operator;

29 (6) whether fire, explosion, or gas leak has occurred;

30 (7) [(6)] status of incident regarding immediate hazard; ~~[and]~~

31 (8) [(7)] other significant facts relevant to the incident; and

32 (9) whether immediate assistance from AFS is requested.

33 (c) Following the initial telephone report, the LP-gas licensee who made the telephone report  
34 shall submit a properly completed LPG Form 20 to AFS ~~[LP-Gas Operations]~~. The report shall be

1 postmarked within 14 calendar days of the date of initial notification to AFS [~~LP-Gas Operations~~], or  
2 within five business days of receipt of the fire department's report, whichever occurs first, unless AFS  
3 [~~LP-Gas Operations~~] grants authorization for a longer period of time when additional investigation or  
4 information is necessary.

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

9 (e) In the case of an accident or incident at a Category P licensee's location, the Category P  
10 licensee shall immediately notify the Category E, F, I or J, [~~or other~~] licensee who supplies cylinders to  
11 the Category P licensee and the Category E, F, I, or J, [~~or other~~] licensee shall be responsible for making  
12 the accident or incident report to AFS [~~LP-Gas Operations~~] as specified in this section.

13  
14 §9.37. Termination of LP-Gas Service.

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

22 (b) If AFS [~~LP-Gas Operations~~] determines that any LP-gas container or installation does not  
23 comply with the Texas Natural Resources Code, Chapter 113, or the LP-Gas Safety Rules, but does not  
24 constitute an immediate danger to the public health, safety, and welfare, AFS [~~LP-Gas Operations~~] shall  
25 take action to ensure that the container or installation comes into compliance as soon as practicable. AFS  
26 [~~LP-Gas Operations~~] action may include the placement of a warning tag. Once the container or  
27 installation complies with Texas Natural Resources Code, Chapter 113, and the LP-Gas Safety Rules,  
28 AFS [~~LP-Gas Operations~~] may remove or delegate the removal of the warning tag.

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

1 §9.38. Reporting Unsafe LP-Gas Activities.

2 (a) A person may report any unsafe or noncompliant LP-gas activities to AFS [~~LP-Gas~~  
3 ~~Operations~~] by mail, telephone, email [~~electronic mail~~], or fax [~~facsimile transmission (fax)~~]. When  
4 possible, the person shall make the report using LPG Form 22. If a person makes a report of unsafe or  
5 noncompliant LP-gas activities to AFS [~~LP-Gas Operations~~] without using LPG Form 22, AFS [~~LP-Gas~~  
6 ~~Operations~~] shall complete the LPG Form 22. Within five business days of receipt of such report, AFS  
7 [~~LP-Gas Operations~~] shall notify the alleged non-compliant party [~~licensee and any other applicable~~  
8 ~~persons~~] in writing regarding the report and specify the reported non-compliant installation and/or  
9 activities [~~violations, if any~~].

10 (b) The [~~If the submitting person does not specifically request anonymity, the~~] Commission may  
11 release the person's name in accordance with [~~any~~] applicable open records procedures.

12 (c) A person who reports unsafe LP-gas activities may be called to testify at a Commission  
13 hearing if one is necessary following the initiation of an enforcement action.  
14

15 §9.41. Testing of LP-Gas Systems in School Facilities.

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

18 (1) Leakage test--An operation performed on a school LP-gas system using LP-gas as the  
19 test medium at not more than normal operating pressure and a gauging instrument measuring gas pressure  
20 in psig, ounces/square inch, or inches of water column to verify there is no gas leakage.

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

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

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

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

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

3 (1) The leakage test shall be performed by an LP-gas licensee, an individual registered  
4 with the Commission pursuant to §9.13 of this title (relating to General Installers and Repairman  
5 Exemption), or an employee of the school district who has been certified by examination with the  
6 Commission to perform such a test.

7 (2) [(1)] If a leak is found in a school LP-gas system, the school district shall  
8 immediately remove the affected school district facility from LP-gas service until repairs are made and it  
9 passes a subsequent school LP-gas system leakage test. If an employee of a school district performs the  
10 initial test, then the subsequent test may not be performed by a school district employee.

11 (3) [(2)] Each school district shall provide the district's supplier with a copy of the most  
12 current LP-Gas Form 30 as proof the school LP-gas system has been tested in accordance with this  
13 section.

14 (4) [(3)] A school district shall retain LPG Form 30 specifying the date and result of the  
15 leakage test performed on each school LP-gas system for a minimum of five years from the date each test  
16 was performed. A school district shall make LPG Form 30 readily available for review by the  
17 Commission or its authorized representative upon request.

18 (c) Leakage test requirements.

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

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

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

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

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

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

33 (d) Methods for conducting a leakage test.

34 (1) Upstream of first stage regulator. Insert a pressure gauge between the manual shutoff

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

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

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

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

20 (1) the supplier receives official notification from the school district[~~, the LP-gas~~  
21 ~~licensee,~~] or the person conducting the leakage test that there is leakage in a school LP-gas system;

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

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

26 (f) Commission requirements.

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

30 (2) AFS [~~LP-Gas Operations~~] shall initiate any enforcement proceedings necessary under  
31 Texas Natural Resources Code, Chapter 113.

32 (g) Compliance deadlines.

33 (1) Each school district shall ensure a leakage test is performed as required by this section  
34 at least once every two years [~~beginning with the 2010-2011 school year~~].

1 (2) School districts shall complete the ~~[initial]~~ leakage tests before the beginning of the  
2 ~~[2010-2011]~~ school year. In the case of a year-round school, a school district shall ensure that a leakage  
3 test in each school district facility is conducted and reported not later than July 1 of the year in which the  
4 test is performed~~[, with the first test due by July 1, 2010].~~

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

7  
8 §9.51. General Requirements for LP-Gas Training and Continuing Education.

9 (a) In addition to complying with NFPA 58, §§4.4 and 11.2, ~~[effective March 1, 2001,]~~  
10 individuals shall comply with the training and continuing education requirements in this chapter.

11 (b) Applicants for ~~[new licenses or new]~~ certificates, as set forth in §9.7 and §9.8 of this title  
12 (relating to Application for License and License Renewal Requirements, and Application for a New  
13 Certificate, respectively) and persons holding existing~~[ licenses or]~~ certificates shall comply with the  
14 training or continuing education requirements in this chapter. Any individual who fails to comply with the  
15 training or continuing education requirements by the assigned deadline may regain certification by paying  
16 the nonrefundable course fee and satisfactorily completing an authorized training or continuing education  
17 course within two years of the deadline. In addition to paying the course fee, the person shall pay any  
18 other required fee ~~[or late penalties]~~ to AFS ~~[AFRED]~~.

19 (c) ~~[(1)]~~ The training requirements apply ~~[only]~~ to:

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

21 (2) individuals registered with the Commission pursuant to §9.13 of this title (relating to  
22 General Installers and Repairman Exemption); and

23 (3) the following ~~[certain]~~ employee-level certificates:

24 (A) bobtail driver;

25 (B) DOT cylinder filler;

26 (C) recreational vehicle technician;

27 (D) service and installation technician;

28 (E) applicant service and installation technician; and

29 (F) motor/mobile fuel filler.

30 (d) ~~[(2)]~~ The continuing education requirements apply to:

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

34 (2) individuals registered with the Commission pursuant to §9.13 of this title;

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

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

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

6                 (2) ~~(B)~~ an individual who fuels motor vehicles as an employee of an ultimate  
7 consumer; or

8                 (3) ~~(C)~~ an employee of a state agency, county, municipality, school district, or other  
9 governmental subdivision, unless such an individual is or becomes certified;

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

11                 ~~(E) anyone certified only as a transport driver, or who holds only an on-road motor fuel,~~  
12 ~~non-road motor fuel, or mobile fuel certification].~~

13           (f) ~~(4)~~ Except as provided in §9.41(b) of this title (relating to Testing of LP-Gas Systems in  
14 School Facilities), each ~~Each~~ individual who performs LP-gas activities as an employee of an ultimate  
15 consumer or a state agency, county, municipality, school district, or other governmental subdivision shall  
16 be properly supervised by his or her employer. Any such individual who is not certified by the  
17 Commission to perform such LP-gas activities shall be properly trained by a competent person in the safe  
18 performance of such LP-gas activities.

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

21           (h) ~~(d)~~ No partial credit. Except as provided in §9.52(a)(2)(A) of this title (relating to Training  
22 and Continuing Education) individuals ~~Individuals~~ attending courses ~~classes~~ shall receive credit only  
23 if they attend the entire course ~~class~~ and pay any training or continuing education course fees in full.  
24 ~~[The Commission shall not award partial credit for partial attendance.]~~

25           (i) ~~(e)~~ Schedules. Dates and locations of available AFS ~~AFRED~~ LP-gas training and  
26 continuing education courses ~~classes~~ can be obtained in the Austin offices of AFS ~~AFRED~~, and on the  
27 Commission's web site and shall be updated at least monthly. AFS courses ~~AFRED classes~~ shall be  
28 conducted in Austin and in other locations around the state. Individuals or companies may request in  
29 writing that AFS courses ~~AFRED classes~~ be taught in their area. AFS ~~AFRED~~ shall schedule its  
30 courses ~~classes~~ and locations at its discretion.

31           (j) ~~(f)~~ Course registration and scheduling ~~[Registering for a class]~~.

32                 (1) Registering for a course. To register for a scheduled training or continuing education  
33 course ~~class~~, an individual shall complete the registration form provided by AFS ~~AFRED~~ and file the  
34 form with the AFS ~~AFRED~~ training section at least seven days prior to the course ~~class~~. AFS

1 ~~[AFRED]~~ shall also accept course ~~[class]~~ registrations via regular mail, electronic mail (e-mail), or  
2 facsimile transmission (fax); such requests shall include the applicant's full name, social security number  
3 or RRC identification number, address, phone number, level (either manager or employee) and category  
4 of certification (such as cylinder filling or service and installation), e-mail address, and the name or  
5 number, location, and date of the requested course ~~[class]~~. The course fee in paragraph (2) of this  
6 subsection must be paid at the time of registration.

7 (2) Costs for courses ~~[classes]~~.

8 (A) Each registration for a training course ~~[class]~~ shall require the payment of the  
9 applicable nonrefundable course ~~[class]~~ fee as follows:

10 (i) \$100 ~~[\$75]~~ for an ~~[initial]~~ eight-hour course ~~[class]~~;

11 (ii) \$200 ~~[\$150]~~ for the ~~[initial]~~ 16-hour course ~~[Category F, G, I, and J~~  
12 ~~class]; and~~

13 (iii) \$1,000 ~~[\$750]~~ for the ~~[initial]~~ 80-hour course ~~[Category E class]~~.

14 (B) The 16-hour and 80-hour course ~~[Category E, F, G, I, and J class]~~ fees do not  
15 include the license or management-level rules examination fees ~~[or license fee]~~ described in §9.6 and  
16 §9.10 of this title (relating to Licenses and Fees, and Rules Examination, respectively).

17 (C) Current certificate holders who have paid the annual renewal fee and who  
18 want to add a new certification other than Category E, F, G, I or J shall not be required to pay the \$100  
19 course ~~[\$75 class]~~ fee.

20 (D) Continuing education courses ~~[classes]~~ shall be offered at no charge to  
21 certificate holders who have timely paid the annual certification ~~[certificate]~~ renewal fee specified in §9.9  
22 of this title (relating to Requirements for Certificate Holder Renewal).

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

30 (F) AFS ~~[AFRED]~~ may charge reasonable fees for materials for courses ~~[classes]~~  
31 using third-party materials.

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

34 ~~[(A) Priority for attending the 16-hour Category F, G, I, and J class, and the 80-~~

1 ~~hour Category E class is based on when the class fee is paid.]~~

2 ~~(B) Priority for attending classes other than the 16-hour Category F, G, I, and J~~  
3 ~~class, and the 80-hour Category E class shall be given to applicants or certificate holders who must~~  
4 ~~comply with training or continuing education requirements by the next May 31 deadline.]~~

5 (A) [(C)] If any course [class] has fewer than eight individuals registered within  
6 seven calendar days prior to the course, AFS [class, AFRED] may cancel the course [class] and may  
7 reschedule the registered individuals in another course [class] agreed upon by the individuals and the AFS  
8 [AFRED] training section. The AFS [AFRED] training section reserves the right to determine the number  
9 of course registrants [class sizes for all classes].

10 (B) An individual is only scheduled for a course if written confirmation is  
11 received from AFS.

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

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

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

18 (1) a registration confirmation email or fax;

19 (2) a completed LPG Form 16 for any examinations to be taken; and

20 (3) payment for examinations, if applicable, in the form of check, money order, or online  
21 payment receipt.

22 (l) [(g)] Retention of records. Individual applicants or certificate holders shall be responsible for  
23 promptly notifying the AFS [AFRED] training section in writing of any discrepancies or errors in the  
24 training or continuing education records, and shall notify AFS [AFRED] of any discrepancies or errors in  
25 examination records or certification cards. In the event of a discrepancy, AFS [AFRED]'s records,  
26 including due dates, shall be deemed correct unless the individual has copies of applicable documents  
27 which clarify the discrepancy.

28  
29 §9.52. Training and Continuing Education [Courses].

30 (a) Training. In addition to complying with NFPA 58, §§4.4 and 11.2, applicants for a new  
31 certification shall complete training.

32 (1) Available training courses.

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

1                   (B) 2.3 Bobtail Operations covers federal and state regulations that apply to  
2 hazardous material transportation, the operation of propane delivery vehicles, and LP-gas safety rules,  
3 including NFPA 54 and NFPA 58, which apply to LP-gas installations.

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

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

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

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

13                   (G) The 80-hour course covers all the material in courses 2.1, 2.3, 3.2, 3.3 and  
14 3.8, and the Commission's rules in this chapter, including NFPA 54 and NFPA 58.

15                   (2) Training requirements.

16                   ~~[In addition to complying with NFPA §§4.4 and 11.2, applicants for a new certification~~  
17 ~~and applicants who have passed a certification examination but have not completed an applicable training~~  
18 ~~course shall complete training as specified in the tables in subsection (h) of this section prior to their first~~  
19 ~~certificate renewal deadline].~~

20                   (A) Category E management-level applicants shall attend the 80-hour course  
21 [class];

22                   (i) Applicants who complete courses 2.1, 2.3, 3.2, 3.3, and 3.8, or their  
23 CETP equivalents, described in subsection (i) of this section, during the two years immediately preceding  
24 an 80-hour course shall receive credit for the first week of the 80-hour course.

25                   (ii) For applicants who attend only the second week of the 80-hour  
26 course, the course fee will be reduced to \$500.

27                   (B) Category F, G, I, and J management-level applicants and individuals  
28 registered with the Commission pursuant to §9.13 of this title (relating to General Installers and  
29 Repairman Exemption), shall attend the 16-hour course [class]; and

30                   (C) Category D, K and M management-level applicants and all applicants for  
31 employee-level certifications that are subject to training requirements shall complete [attend] an eight-  
32 hour course within six months of passing an examination [class]. [A certificate holder's training deadline  
33 shall not be extended if that individual retakes and passes an examination for the current category and  
34 level of certification. A training deadline shall be extended only after a certificate holder successfully

1 ~~completes an applicable training class:]~~

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

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

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

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

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

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

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

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

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

16 (3) [(1)] Individuals who pass an employee-level rules examination [between March 1  
17 and May 31 of any year] shall have six months [until May 31 of the next year] to complete any required  
18 training. [Individuals who pass an employee-level rules examination at other times shall have until the  
19 next May 31 to complete any required training. Completion of AFT shall be in accordance with  
20 subsection (g) of this section.]

21 (4) [(2)] Applicants for company representative or operations supervisor shall comply  
22 with the training requirements in this section prior to the Commission issuing a certificate.

23 (5) Individuals who fail to complete the required training within six months of passing  
24 an examination shall immediately cease all LP-gas activities.

25 (6) A certificate holder's training deadline shall not be extended if that individual retakes  
26 and passes an examination for the current category and level of certification. A training deadline shall be  
27 extended only after a certificate holder successfully completes an applicable training course.

28 (b) Continuing education. In addition to complying with NFPA 58, §4.4, a [A] certificate holder  
29 shall complete [at least eight hours of] continuing education every three [four] years as specified in this  
30 subsection [the tables in subsection (h) of this section].

31 (1) A certificate holder shall complete a continuing education course within three years  
32 following the completion of a training course required in subsection (a) of this section. Upon fulfillment  
33 of this requirement, the certificate holder's next continuing education deadline shall be three [four] years  
34 after [the May 31 following] the date of the most recent course [class] the certificate holder has

1 completed~~[, unless the class was completed on May 31, in which case the deadline shall be four years~~  
2 ~~from that date]~~.

3 (2) Certificate holders not assigned a specific training course under subsection (a) of this  
4 section shall attend a continuing education course within six years of passing a certification examination.  
5 Upon fulfillment of this requirement, the certificate holder's next continuing education deadline shall be  
6 six years after the most recent course the certificate holder has completed.

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

12 ~~[(1) Continuing education requirements for certain categories:]~~

13 ~~[(A) Certificate holders who hold only a Category D, F, G, J, or K certificate as~~  
14 ~~of the effective date of this section shall have completed their initial continuing education requirement by~~  
15 ~~May 31, 2005. Beginning September 1, 2005, Category M and recreational vehicle technician certificate~~  
16 ~~holders shall have completed their initial continuing education requirement by May 31, 2006. Certificate~~  
17 ~~holders who hold a Category D, F, G, J, K, or M certificate or a recreational vehicle technician certificate~~  
18 ~~and who have more than one certification as of February 1, 2001, shall complete their continuing~~  
19 ~~education requirement by the continuing education deadline assigned for the initial certificate. Public~~  
20 ~~employees who were certified as of June 1, 2006, shall have completed their continuing education~~  
21 ~~requirement by May 31, 2007:]~~

22 (5) ~~[(B)]~~ Certificate holders who are certified to perform LP-gas activities covered by  
23 different certifications shall complete the continuing education requirements for any one of the  
24 certifications held in order to maintain active status. For each subsequent continuing education  
25 requirement, such individuals shall be responsible for attending a different continuing education course  
26 ~~[class]~~ relevant to one of the other certifications held.

27 (6) ~~[(2)]~~ Certificate holders who attend a course ~~[class]~~ offered by an outside instructor  
28 shall not be entitled to a refund of the annual renewal fee or any other fees or penalties required by the  
29 Commission.

30 (7) ~~[(3)]~~ Certificate holders ~~[Individuals]~~ who have not paid the annual certification  
31 ~~[certificate]~~ renewal fee and ~~[, including general installers and repairman exemption holders or]~~ members  
32 of the general public~~[, shall not attend training or continuing education classes free of charge, but]~~ may  
33 ~~[request from the AFRED training section to]~~ attend courses ~~[classes]~~ at the charge specified in §9.51 of  
34 this title (relating to General Requirements for LP-Gas Training and Continuing Education). A request to

1 attend a course [~~Such requests~~] shall be in writing, submitted to the AFS training section, and granted  
2 [~~handled~~] at AFS' [~~AFRED's~~] discretion on an individual basis and if space is available [~~in the requested~~-  
3 ~~class~~].

4 (8) [~~(4)~~] Any certificate holder who has timely paid the annual certification [~~certificate~~]  
5 renewal fee but is not otherwise required to attend a Commission continuing education course [~~class~~] may  
6 voluntarily attend a course [~~class~~], if space is available, by registering with the AFS [~~AFRED~~] training  
7 section as specified in §9.51 of this title [~~(relating to General Requirements for Training and Continuing~~  
8 ~~Education)~~].

9 (9) Any certificate holder who is required to attend continuing education courses may  
10 attend an applicable training course listed in §9.51 of this title for continuing education credit. The  
11 certificate holder must pay the training course fee.

12 (c) Adding a new certification. A current certificate holder who successfully completes an  
13 examination for an additional certification that requires completion of a training course shall be assigned  
14 a training deadline pursuant to subsection (a)(2) and (3) [~~(a)(1)~~] of this section. Upon completion of the  
15 required training, the certificate holder shall be assigned a continuing education date pursuant to  
16 subsection (b) of this section.

17 (d) Train-the-Trainer courses [~~classes~~]. The Train-the-Trainer courses [~~classes~~] shall not count as  
18 credit towards the training or continuing education requirements.

19 (e) Course [~~Class~~] materials. Individuals who attend AFS [~~AFRED~~]-taught training courses  
20 [~~classes~~] shall receive a copy of the course [~~class~~] materials at no charge. Additional copies may be  
21 purchased from AFS [~~AFRED~~] at the established price.

22 (f) Certificates of completion. The AFS [~~AFRED~~] training section shall issue a certificate of  
23 completion to each individual who completes a management-level course [~~an AFRED-taught class~~.  
24 ~~Individuals shall retain the certificates as proof of completion of the class~~].

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

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

34 [~~(A) For licensees with only one company representative, that company~~

1 ~~representative shall self-certify the AFT.]~~

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

4 ~~[(C) Company representatives shall certify operations supervisors' AFT.]~~

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

7 ~~[(E) If authorized, a Commission-approved outside instructor may certify any~~  
8 ~~AFT.]~~

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

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

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

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

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

23 [(E) For an individual who is employed by a licensee when a class requiring AFT  
24 is attended, but who prior to the AFT's being certified becomes employed by a new licensee, the new  
25 licensee shall certify the individual's AFT:]

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

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

34 [(4) If AFT is required for a class, the AFT checklist outlining the specific activities to be

1 ~~performed shall be included in the class materials.]~~

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

4 ~~(g) [(h)] Available [courses, Training and] continuing education courses [and other information]~~  
5 ~~are listed below and shown in the table in subsection (i) of this section [Tables 1 through 4 of this~~  
6 ~~subsection]. Items on the table [tables] marked with an "x" indicate CETP courses that meet [training or]~~  
7 ~~continuing education requirements for [management-level or] employee-level certificate holders in that~~  
8 ~~category.~~

9 (1) Dispensing Continuing Education course;

10 (2) Bobtail and Service Installation Continuing Education course; and

11 (3) 6.1 Regulatory Compliance for Managers course.

12  
13 ~~[Figure: 16 TAC §9.52(h)]~~

14 (h) Continuing education credit for certificate holders. A certificate holder may receive  
15 continuing education credit as specified below:

16 (1) DOT Cylinder Filler and Motor and Mobile Fuel Filler certificate holders may  
17 complete the Dispensing Continuing Education course.

18 (2)The following certificate holders may complete the Bobtail and Service and  
19 Installation Continuing Education course:

20 (A) Bobtail Driver;

21 (B) Service and Installation Technician;

22 (C)Appliance Service and Installation Technician; and

23 (D) Recreational Vehicle Technician.

24 (3) The following certificate holders shall complete [Course to be determined at a later  
25 date] to meet continuing education requirements:

26 (A) Cylinder Delivery Driver;

27 (B) Transport Driver; and

28 (C) On-road motor fuel, non-road motor fuel, and mobile fuel.

29 (4) Management-level certificate holders and individuals registered with the Commission  
30 pursuant to §9.13 of this title shall complete the 6.1 course to meet continuing education requirements.

31  
32 (i) Credit for ~~[attendance at]~~ CETP courses. An employee-level [A] certificate holder who has  
33 successfully completed a CETP course [class], including any applicable knowledge and skills  
34 assessments, may receive credit toward the continuing education requirements specified in this section as

1 follows:

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

4 (2) The successful completion of a CETP course [~~class~~] is determined by a National  
5 Propane Gas Association [~~class~~] certificate, which is issued only after an individual has completed the  
6 prescribed course of study, including any related knowledge and skills assessments, for the applicable  
7 CETP job classification.

8 (3) To receive credit toward the Commission's continuing education requirements, the  
9 certificate holder shall submit the following information, clearly readable, by fax, by regular mail to AFS  
10 [~~AFRED~~], Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, or by electronic  
11 mail to the following address: training-exams@rrc.texas.gov.

12 (A) the individual's full name, address, and telephone number[~~; Social Security~~  
13 ~~number~~];

14 (B) a copy of the certificate holder's [~~the~~] LP-gas certification cards  
15 [~~certification(s)~~] currently held; and

16 (C) the CETP course [~~class~~] date and a readable copy of the CETP course [~~class~~]  
17 certificate for an approved CETP course [~~class~~] as specified in the table in this subsection [~~Tables 3 and 4~~  
18 ~~of subsection (h) of this section~~]. [~~The CETP class attendance date shall be within one year of the~~  
19 ~~certificate holder's continuing education deadline.~~]

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

22 (A) If the material is incomplete, AFS [~~AFRED~~] shall identify the necessary  
23 additional information required.

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

26 (C) Certificate holders requesting credit for CETP course [~~class~~] attendance shall  
27 submit such requests to allow processing time so that a request is finally approved by the certificate  
28 holder's continuing education due date [~~May 31~~] in order for the certificate holder to receive credit toward  
29 that deadline.

30 Figure: 16 TAC §9.52(i)

31 (j) Individuals whose certification has lapsed shall pay a \$50 continuing education course fee  
32 upon registering for a course.

33  
34 §9.54. Commission-Approved Outside Instructors.

1 (a) General.

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

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

9 (B) Authorized Category E outside instructors may offer only the applicable  
10 training and continuing education courses [~~classes~~] to Category D or K management-level applicants and  
11 to DOT [~~portable~~] cylinder filler [~~filling~~], motor/mobile fuel filler [~~dispenser~~], bobtail driver, service and  
12 installation technician, and appliance service and installation technician applicants and employee-level  
13 certificate holders.

14 (C) Authorized Category I outside instructors may offer only the applicable  
15 training and continuing education courses [~~classes~~] to [~~Category F, G, I, and J management-level~~  
16 ~~certificate holders and~~] DOT cylinder filler [~~filling~~] and motor/mobile fuel filler [~~dispenser~~] applicants  
17 and employee-level certificate holders.

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

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

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

27 (4) Copies of the AFS [~~AFRED~~] curricula and materials are available from AFS  
28 [~~AFRED~~] at a reasonable cost.

29 (b) Application process. Outside instructor applicants shall submit the following to AFS  
30 [~~AFRED~~]:

31 (1) a non-refundable \$500 [~~\$300~~] registration fee for each outside instructor;

32 (2) a copy of the applicant's Category D, E, I, or M current certification card or, in the  
33 case of Category D only, a copy of the master or journeyman plumber/class A or B  
34 registration/examination exemption certificate issued under §9.13 of this title (relating to General

1 Installers and Repairman Exemption) [by ~~AFRED~~];

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

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

4 (B) the course materials and related supporting information or a statement that  
5 the instructor will use the AFS [~~AFRED~~] course materials;

6 [~~(C) a statement specifying whether the outside instructor seeks approval to~~  
7 ~~certify any AFT described in §9.52 of this title (relating to training and continuing education courses)];~~

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

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

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

12 (5) any other information required by this section.

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

18 (d) AFS [~~AFRED~~] review. AFS [~~AFRED~~] shall review the application for approval as an outside  
19 instructor and, within 14 business days of the filing of the application, shall notify the applicant in writing  
20 that the application is approved, denied, or incomplete. If an application is incomplete, AFS' [~~AFRED's~~]  
21 notice of deficiency shall identify the necessary additional information, including any deficiencies in  
22 course materials. The outside instructor applicant shall file the necessary additional information within 30  
23 calendar days of the date of AFS' [~~AFRED's~~] notice of deficiency. The outside instructor applicant's  
24 failure to file the necessary additional information within the prescribed time period may result in the  
25 dismissal of the outside instructor's application and the necessity of the outside instructor applicant again  
26 paying the non-refundable \$500 [~~\$300~~] registration fee for each subsequent filing of an application.

27 (e) Additional requirements for approval. Outside instructor applicants whose applications are  
28 approved in writing by AFS [~~AFRED~~] shall attend AFS' [~~AFRED's~~] Train-the-Trainer Course, the fee for  
29 which is included in the \$500 [~~\$300~~] registration fee. The Train-the-Trainer Course shall include  
30 classroom instruction and the subject-matter examinations for each course for which the applicant seeks  
31 approval to conduct. An outside instructor applicant shall pass the subject-matter examination for each  
32 course with a score of at least 85 percent and shall attend the subject-matter courses for which the  
33 applicant seeks approval to conduct.

34 (f) Notification of approval. Within 10 business days of the outside instructor applicant's

1 completion of the requirements of this section, AFS [~~AFRED~~] shall notify the applicant in writing that the  
2 applicant is approved as an outside instructor and the outside instructor may then begin offering the  
3 approved courses.

4 (g) Term of approval. AFS [~~AFRED~~] approval of an outside instructor remains valid for three  
5 years if the instructor complies with the renewal requirements of subsections (h) and (i) of this section,  
6 unless the Commission revokes the approval pursuant to subsection (l) of this section.

7 (h) Renewal of approval.

8 (1) To continue offering AFS-approved [~~AFRED-approved~~] LP-gas courses [~~classes~~], an  
9 outside instructor shall renew his or her AFS outside instructor [~~AFRED~~] approval annually [~~every three~~  
10 ~~years~~] by paying a nonrefundable \$100 [~~\$150~~] renewal fee to AFS [~~AFRED~~] and attending a Train-the-  
11 Trainer refresher course every three years [~~class prior to the outside instructor's next renewal deadline~~].

12 (2) An outside instructor who fails to renew his or her outside instructor approval by the  
13 deadline will have a lapsed approval and shall immediately cease offering AFS courses until all renewal  
14 requirements are met. If an outside instructor approval has lapsed for more than six months, the approval  
15 will expire and the instructor must comply with the requirements for a new outside instructor approval.

16 (i) Revision of course materials.

17 (1) An outside instructor who revises any course materials previously approved by AFS  
18 [~~AFRED~~] shall submit the revisions in writing, along with a nonrefundable \$100 review fee to AFS;  
19 [~~AFRED~~]

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

24 (3) An outside instructor [~~and~~] shall not use [~~the~~] materials in a course until the outside  
25 instructor has received written AFS [~~AFRED~~] approval.

26 (4) AFS [~~AFRED~~] shall review the revised course materials and, within 14 business  
27 days, shall notify the outside instructor in writing that the revised course materials are approved or not  
28 approved.

29 (5) If the revised course materials are not approved, AFS' [~~AFRED's~~] notice shall  
30 identify the portion or portions that are not approved and/or shall describe any deficiencies in the revised  
31 course materials. The outside instructor shall file any necessary additional information within 30 calendar  
32 days of the date of AFS' [~~AFRED's~~] notice of disapproval. The outside instructor's failure to file the  
33 necessary additional information within the prescribed time period may result in the dismissal of the  
34 outside instructor's request for approval of revised course materials and the necessity of again paying the

1 \$100 review fee for each subsequent filing of revised course materials.

2 (j) Continuing requirements. Outside instructors shall:

3 (1) maintain their Category D, E, I, or M certification [~~certificate~~] or Category D  
4 registration card [~~registration/examination exemption certificate~~] in continuous good standing. The Train-  
5 the-Trainer course [~~class~~] shall not count as credit towards any training or continuing education  
6 requirements. Any interruption of the required Category D, E, I, or M certification or Category D  
7 registration card [~~registration/examination exemption certificate~~] may result in the Commission revoking  
8 or suspending the outside instructor's approval;

9 (2) adhere to professional standards of conduct in course [~~class~~] presentations; and

10 (3) report to AFS [~~AFRED~~] within three business days of the conclusion of a course  
11 [~~class~~] the names, social security numbers or RRC identification numbers, and any other information  
12 required by AFS [~~AFRED~~], of the persons completing the course [~~class~~]. The report shall be made  
13 electronically [~~by electronic mail (e-mail) in an electronic format provided by AFRED~~]. The outside  
14 instructor shall ensure that AFS [~~AFRED~~] receives the report by securing written acknowledgment of its  
15 receipt by AFS [~~AFRED~~]. [~~This acknowledgment may be by return electronic mail (e-mail) or by~~  
16 ~~facsimile transmission (fax):~~]

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

27 (l) Complaints.

28 (1) Complaints regarding outside instructors shall be made to AFS [~~AFRED~~] in writing  
29 by [~~electronic mail (e-mail)~~], [~~facsimile transmission (fax)~~], or U.S. Postal Service; shall include the  
30 printed name, address, telephone number, and, if filed by fax or U.S. Postal Service, the signature of the  
31 person complaining; shall state the outside instructor's name, the date, location, and title of the course;  
32 and shall describe the facts that show [~~set forth the facts that the complainant alleges demonstrate that~~]  
33 the outside instructor:

34 (A) failed to meet or maintain AFS [~~AFRED~~] requirements for outside instructor

1 approval;

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

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

9 (2) Upon receipt of a complaint and at its discretion, AFS [~~AFRED~~] may gather any  
10 additional information necessary or appropriate to making a full and complete analysis of the complaint.  
11 AFS [~~AFRED~~] shall deliver a written copy of the analysis and any findings by certified mail to the  
12 outside instructor who is the subject of the complaint. The outside instructor may file a written response  
13 within 20 calendar days from the date the findings are postmarked.

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

19 (4) AFS [~~AFRED~~] shall mail a copy of the report and recommendation to the outside  
20 instructor by certified mail and shall include a statement that the outside instructor has a right to a hearing  
21 on the determination contained in the report.

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

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

27 (7) If an outside instructor requests a hearing or fails to respond timely to the notice given  
28 under paragraph (5) of this subsection, the AFS [~~AFRED~~] director shall refer the matter to the Hearings  
29 Division [~~the Office of General Counsel for the setting of a hearing. The Office of General Counsel shall~~  
30 ~~assign an examiner to conduct a hearing, which shall be conducted under the Commission's General Rules~~  
31 ~~of Practice and Procedure, Chapter 1 of this title (relating to Practice and Procedure)].~~

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

1 (9) If the outside instructor does not comply with the order of the Commission, and if the  
2 enforcement of the Commission's order is not stayed, then the Office of General Counsel may refer the  
3 matter to the attorney general for enforcement of the Commission's order.  
4

5 SUBCHAPTER B. LP-GAS INSTALLATIONS, CONTAINERS, APPURTENANCES, AND  
6 EQUIPMENT REQUIREMENTS  
7

8 §9.101. Filings Required for Stationary LP-Gas Installations.

9 (a) General Requirements. No LP-gas container shall be placed into LP-gas service or an  
10 installation operated or used in LP-gas service until the requirements of this section, as applicable, are met  
11 and the facility is in compliance with all applicable LP-Gas Safety Rules and statutes, in addition to any  
12 applicable permitting requirements of the municipality or the county where an installation is or will be  
13 located if the municipality or county has complied with Texas Natural Resources Code §113.054. LP-gas  
14 systems under the jurisdiction of DOT Safety regulations in 49 CFR Parts 192 and 199, and Part 40 shall  
15 comply with Chapter 8 of this title (relating to Pipeline Safety Regulations) prior to implementation of  
16 service.

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

18 (1) Within 30 calendar days following the completion of a commercial container  
19 installation, the licensee or registrant shall submit LPG Form 501 to AFS [~~LP-Gas Operations~~] stating:

20 (A) the installation fully complies [~~is in total compliance~~] with the statutes and  
21 *LP-Gas Safety Rules*;

22 (B) all necessary Commission [~~LP-gas~~] licenses, [~~and~~] certificates, and permits  
23 have been issued; [~~and~~]

24 (C) the date the installation has been placed into LP-gas service; and[-]

25 (D) the installation has received any required city and/or county permits.

26 (2) The licensee or registrant shall pay [~~Pay~~] a nonrefundable fee of \$15 [~~\$10~~] for each  
27 item listed on LPG Form 501, including each LP-gas container or cylinder, each retail LP-gas cylinder  
28 exchange storage rack, and each forklift cylinder exchange rack or a forklift cylinder exchange  
29 installation where a storage rack is not installed [~~LP-gas container, including cylinders, each retail LP-gas~~  
30 ~~cylinder exchange storage rack, and each forklift cylinder exchange rack or a forklift cylinder exchange~~  
31 ~~installation where a storage rack is not installed that is listed on the form~~].

32 (A) AFS shall review the submitted information and shall notify the licensee or  
33 registrant in writing of any deficiencies.

34 (B) A nonrefundable \$50 [~~\$35~~] fee shall be required for any resubmission.

1                    (C) The licensee or registrant shall respond with the required information within  
2 30 calendar days or the installation may be removed from service.

3                    ~~(3) [LP-Gas Operations shall review the submitted information within 21 business days~~  
4 ~~of receipt of all required information and shall notify the applicant in writing of any deficiencies.] LP-gas~~  
5 ~~activities [operations] may commence prior to the submission of LPG Form 501 if the facility is in~~  
6 ~~compliance with the LP-Gas Safety Rules.~~

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

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

12                    (A) LPG Form 500;

13                    (B) a copy of the appropriate permits required by the city and/or county where  
14 the proposed installation will be located;

15                    ~~[(B) LPG Form 500A with all applicable documents;]~~

16                    ~~[(C) a plat drawing from the appropriate appraisal district identifying:]~~

17                    ~~[(i) the facility's property boundaries;]~~

18                    ~~[(ii) the names of all real property owners within 500 feet; and]~~

19                    ~~[(iii) a 500-foot radius measured from the proposed container location on the~~  
20 ~~site.]~~

21                    (C) [(D)] a site plan of sufficient scale that identifies:

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

24                    (ii) the distances from the containers ~~[and the transfer system]~~ to ~~[the]~~  
25 property lines, buildings on the same property, and any electric transmission lines. If the area where the  
26 container will be installed is a leased area or utility easement, the site plan shall indicate the boundaries of  
27 the leased area or utility easement, regardless of the size of the property in which the lease or easement  
28 lies [railroad, pipeline, or roadway rights-of-way];

29                    (iii) any known potential hazards;

30                    (iv) location of bulkheads and dispensers, [bulkhead] and distance from  
31 proposed container (the nearest container if more than one), property lines, buildings on the same  
32 property, roadways, driveways, and railroad track centerlines;

33                    (v) location of remote emergency shut-off devices and distance to  
34 bulkheads [valves];

(vi) route of vehicular traffic around containers;

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

(viii) the location of other types of aboveground fuel containers, the type  
of fuel stored, and the distance to LP-gas containers and transfer equipment; and [distance and location to  
nearest highway]

(ix) the location of other types of fuel dispensers, type of fuel dispensed,  
and the distance to LP-gas containers and transfer equipment;

(D) printed copies of site plans with a legend must be printed to the correct size  
for the legend indicated;

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

(F) if the container is aboveground or mounded and subject to flood waters, or if  
the container is underground or partially buried and installed in a high water table, information on the  
anchoring system to be used; and

(G) [F] [pay] a nonrefundable fee of \$100 [\$50] for the initial application, or a  
[-A] nonrefundable \$50 [\$30] fee [shall be required] for any resubmission.

(2) In addition to NFPA 58, §6.5.4 prior to the installation of any individual LP-gas  
container, AFS [LP-Gas Operations] shall determine whether the proposed installation constitutes a  
danger to the public health, safety, and welfare. The licensee or registrant shall provide additional  
information if requested by AFS.

(A) AFS [LP-Gas Operations] 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;]~~

(iii) [v] type of activities [operations] on the installation's premises;

1                   (iv) [~~(vi)~~] potential sources of ignition that might affect an LP-gas leak;  
2                   (v) [~~(vii)~~] existence of dangerous or combustible materials in the area  
3 that might be affected by an emergency situation;  
4                   (vi) [~~(viii)~~] any known potential hazards or other factors material to the  
5 public health, safety, and welfare.

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

9                   ~~[(3) If an LP-gas stationary installation, equipment, or appurtenances not specifically  
10 covered by the LP-Gas Safety Rules has been or will be installed, LP-Gas Operations shall apply and  
11 require any reasonable safety provisions to ensure the LP-gas installation is safe for LP-gas service. If the  
12 affected entity disagrees with LP-Gas Operations' determination, the entity may request a hearing. The  
13 installation shall not be placed into LP-gas operation until LP-Gas Operations has determined that the  
14 installation is safe for LP-gas service.]~~

15                   (3) [~~(4)~~] AFS [LP-Gas Operations] shall notify the applicant in writing of [outlining] its  
16 findings.

17                   ~~(4) If the application is administratively denied; [;]~~

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

20                   (B) Within 30 calendar days of the date of the written notice, the applicant shall  
21 [may] modify the submission and resubmit it for approval, [or] request a hearing on the matter [in  
22 accordance with Chapter 1 of this title (relating to Practice and Procedure)], or request an extension. If the  
23 applicant does not respond by the deadline, the application will be withdrawn.

24                   (C) The applicant may request an extension of the 30-day time period. The  
25 request shall be in writing and delivered before the expiration date in subparagraph (B) of this paragraph,  
26 and shall state the reason for the extension and the date the response will be submitted. AFS may extend  
27 the response period for up to 90 days.

28                   (5) The licensee shall not commence construction until notice of approval is received  
29 from AFS [LP-Gas Operations].

30                   (A) If the subject installation is not completed within one year from the date  
31 AFS has granted construction approval, the application will expire.

32                   (B) Prior to the date of expiration, the applicant may request in writing an  
33 extension of time of up to 90 days to complete the installation.

34                   (C) If the applicant fails to request an extension of time within the time period

1 prescribed in this paragraph, the applicant shall submit a new application before the installation can be  
2 completed.

3 (6) A container may contain product to test piping and appliances. The maximum  
4 amount of product allowed is 10%.

5 (7) The applicant shall submit to AFS written notice of completed construction and the  
6 Commission shall complete the [Upon completion of a] field inspection [as] specified in §9.109 of this  
7 title (relating to Physical Inspection of Stationary LP-Gas Installations)[, the operator, pending the  
8 inspection findings, may commence LP-gas operations of the facility].

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

11 ~~[(6) If the subject installation is not completed within one year from the date of LP-Gas~~  
12 ~~Operations' completed review, the requirements of this subsection shall be resubmitted for LP-Gas~~  
13 ~~Operations' review.]~~

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

19 (10) [(e)] If a licensee is replacing a container with a container of the same or less overall  
20 [length and] diameter and length or height, and is installing [installed] the replacement container in the  
21 identical location of the existing container, the licensee shall file LPG Form 500 and a site plan.

22 (d) [(f)] [In addition,] AFS [LP-Gas Operations] may request LPG Form 8, a Manufacturer's Data  
23 Report, or any other documentation or information pertinent to the installation in order to determine  
24 compliance with the LP-Gas Safety Rules.

25 (e) For installations that are a licensee outlet, the operating licensee shall comply with §9.7(g) of  
26 this title (relating to Application for License and License Renewal Requirements).

27  
28 §9.102. Notice of Stationary LP-Gas Installations. REPEAL

29  
30 §9.103. Objections to Proposed Stationary LP-Gas Installations. REPEAL

31  
32 §9.105. Temporary Installations.

33 (a) In addition to NFPA 58, §4.3.2, temporary LP-gas installations shall meet the requirements of  
34 this section.

1           (1) Prior to the completion of a temporary installation with an individual or aggregate  
2 water capacity less than 10,000 gallons, the licensee shall file LPG Form 501 with AFS, and include  
3 proof of the local fire marshal's approval if the installation is within such jurisdiction.

4           (2) Prior to the completion of a temporary installation with an individual or aggregate  
5 water capacity of 10,000 gallons or more, the licensee or non-licensee shall file LPG Form 500, including  
6 plans and specifications, and proof of the local fire marshal's approval if the installation is within such  
7 jurisdiction.

8           (b) Temporary installations shall be limited to one year from the date of installation. If the  
9 temporary installation is expected to remain in service for more than one year, the licensee or non-  
10 licensee responsible for the temporary installation shall inform AFS at least 30 days prior to the  
11 expiration of the one-year period.

12           (c) Temporary installations shall be protected by guardrailing as specified in §9.140(c) of this  
13 title (relating to System Protection Requirements) unless otherwise approved by AFS.

14           (d) Temporary installations shall be mounted on a secure surface, not to include bare earth.

15           (e) AFS may inspect temporary installations for compliance with this section.

16           (f) Temporary installations which are used during peak demand times such as during cold  
17 weather or emergencies are not required to comply with subsection (b) of this section. The licensee shall  
18 install a sign and provide brochures or other similar means of notification at the site to advise the public  
19 of the need and use for the temporary installation.

20  
21 §9.107. Hearings on Stationary LP-Gas Installations. REPEAL

22  
23 §9.108. Interim Approval Order for Stationary LP-Gas Installations.

24           If the Commission finds after a public hearing that the proposed installation complies with the  
25 *LP-Gas Safety Rules* and the statutes of the State of Texas, and does not constitute a danger to the public  
26 health, safety, and welfare, the Commission shall issue an interim approval order. The construction of the  
27 installation and the setting of the container shall not proceed until the applicant has received written  
28 notification of the interim approval order. Any interim approval order shall include a provision that such  
29 approval may be suspended or revoked if:

30           (1) the applicant has introduced LP-gas into the system prior to final approval; ~~or~~

31           (2) a physical inspection of the installation indicates that it is not installed in compliance  
32 with the submitted plat drawing for the installation, the *LP-Gas Safety Rules* or the statutes of the State of  
33 Texas; or

34           (3) the installation constitutes a danger to the public health, safety, and welfare.

1 §9.109. Physical Inspection of Stationary LP-Gas Installations.

2 (a) Aggregate water capacity of 10,000 gallons or more. The applicant shall notify AFS [~~LP-Gas~~  
3 ~~Operations~~] in writing when the installation is ready for inspection. [~~If LP-Gas Operations does not~~  
4 ~~physically inspect the facility within 30 calendar days of receipt of notice that the facility is ready for~~  
5 ~~inspection, the facility may operate conditionally until the initial complete inspection is made.~~]

6 (1) If any non-compliance items are cited [~~safety rule violations exist~~] at the time of AFS'  
7 [~~LP-Gas Operations'~~] initial inspection, the installation may not be placed in LP-gas service [~~be required~~  
8 ~~to cease LP-gas operations~~] until the non-compliance items [~~violations~~] are corrected, as determined at the  
9 time of inspection depending on the nature of the non-compliance items cited.

10 (2) If an underground container will be installed, the container must remain uncovered  
11 until the inspection is complete and AFS determines that all installation requirements have been met.

12 (3) If AFS does not physically inspect the facility within 30 calendar days of receipt of  
13 notice that the facility is ready for inspection, the facility may operate conditionally until the initial  
14 inspection is completed. If the one-year construction completion deadline required in §9.101 of this title  
15 (relating to Filings Required for Stationary LP-Gas Installations) has passed during the inspection  
16 process, then a new application shall be required.

17 (4) If the applicant requests an inspection prior to the installation being complete, AFS  
18 may assess cost for reinspection. If the one-year construction completion deadline has passed during the  
19 inspection process, then a new application shall be required.

20 (5) If the one-year construction completion deadline required in §9.101 of this title  
21 (relating to Filings Required for Stationary LP-Gas Installations) has passed during the inspection  
22 process, then a new application shall be required.

23 (b) Aggregate water capacity of less than 10,000 gallons. After receipt of LPG Form 501, AFS  
24 [~~LP-Gas Operations~~] shall conduct an inspection as soon as possible to verify that the installation  
25 described is in compliance with the LP-Gas Safety Rules. The facility may be operated prior to inspection  
26 if it is in compliance with the LP-Gas Safety Rules. If the initial [~~any LP-gas statute or safety rule~~  
27 ~~violation exists at the time of the first~~] inspection at a commercial installation results in the citation of  
28 non-compliance items, AFS may require that the subject container, including any piping, appliances,  
29 appurtenances, or equipment connected to it, [~~may~~] be immediately removed from LP-gas service until  
30 the non-compliance items [~~violations~~] are corrected.

31 (c) Material variances. If AFS [~~LP-Gas Operations~~] determines the completed installation varies  
32 materially from the application originally accepted, correction of the variance and notification to AFS  
33 [~~LP-Gas Operations~~] or resubmission of the application is required. The review of such resubmitted  
34 application shall comply with §9.101 of this title [~~(relating to Filings Required for Stationary LP-Gas~~

1 ~~Installations~~).

2 (d) In the event an applicant has requested an inspection and AFS' ~~[LP-Gas Operations]~~  
3 inspection identifies non-compliance items ~~[violations]~~ requiring modifications by the applicant, AFS  
4 ~~[LP-Gas Operations]~~ shall consider the assessment of an inspection fee to cover the costs associated with  
5 any additional inspection, including mileage and per diem rates set by the legislature.

6  
7 §9.110. Emergency Use of Proposed Stationary LP-Gas Installations.

8 When there is an immediate need for LP-gas supply under emergency circumstances, AFS ~~[LP-~~  
9 ~~Gas Operations]~~ may waive the requirement for the initial ~~[complete]~~ inspection for a limited time period  
10 in order to meet the emergency need. LP-gas shall not be introduced into the container and it shall not be  
11 placed into LP-gas service until AFS ~~[LP-Gas Operations]~~ grants permission to do so.

12  
13 §9.111. Self-Service Dispensers.

14 Self-service dispensers shall be operated by a certified employee of an LP-gas licensee or an  
15 ultimate consumer trained by an LP-gas licensee.

16  
17 §9.113. Installation and Maintenance.

18 All LP-gas storage containers, valves, dispensers, accessories, piping, transfer equipment, gas  
19 utilization equipment, and appliances shall be installed and maintained in safe working order and in  
20 accordance with the manufacturer's instructions and the LP-Gas Safety Rules. If any one of the LP-gas  
21 storage containers, valves, dispensers, accessories, piping, transfer equipment, gas utilization equipment,  
22 and appliances is not in safe working order, AFS ~~[LP-Gas Operations]~~ may require that the installation be  
23 immediately removed from LP-gas service and not be operated until the necessary repairs have been  
24 made.

25  
26 §9.114. Odorizing and Reports.

27 (a) Odorization shall comply with NFPA 58, §§4.2 and 5.2.8.5 ~~[\$4.2]~~.

28 (b) If AFS ~~[LP-Gas Operations]~~ determines that there may ~~[shall]~~ be insufficient odorization,  
29 AFS ~~[LP-Gas Operations]~~ may require testing ~~[as deemed necessary to determine its sufficiency]~~. If  
30 testing is deemed necessary, AFS ~~[LP-Gas Operations]~~ shall notify the necessary parties in writing as  
31 soon as possible. The written notification will advise which entity is responsible for having the tests  
32 performed and paying for the tests to be conducted. The testing shall be performed by a recognized  
33 testing laboratory equipped for and experienced in testing of odorization and, if requested, a copy of the  
34 test results shall be provided to AFS ~~[LP-Gas Operations]~~.

1 (c) The person or facility odorizing the gas or the operator of an automatic loading rack shall be  
2 responsible for the odorization.

3 (d) Containers that will contain unodorized LP-gas shall be legibly marked "NON-ODORIZED"  
4 or "NOT ODORIZED" on two opposing sides of the container.

5 (e) Each person transferring liquid product into a container shall verify the product has a distinct  
6 odor of ethyl mercaptan unless the product is labeled as unodorized.

7  
8 §9.115. Examination and Testing of Containers.

9 (a) In order to determine the safety of a container, AFS [LP-Gas Operations] may require that the  
10 licensee or operator of the container submit [send] a copy of the manufacturer's data report on that  
11 container [to LP-Gas Operations]. AFS [LP-Gas Operations] may also require that the container and  
12 equipment be examined by a Category A, B, or O licensee, with a comprehensive report on the findings  
13 submitted to AFS [LP-Gas Operations] for its consideration. This subsection may be applied even though  
14 an acceptable LPG Form 23 has been received.

15 (b) Any stationary ASME LP-gas container previously in LP-gas service or brought into Texas  
16 which has not been subject to continuous LP-gas vapor pressure shall be retested by an authorized  
17 Category A, B, or O licensed entity utilizing recognized ASME test methods to determine if the container  
18 is safe for LP-gas use in Texas, and the test results shall be submitted to AFS [LP-Gas Operations] on  
19 LPG Form 8.

20 (c) Any stationary ASME LP-gas container which has been subject to continuous LP-gas vapor  
21 pressure may not require testing [is not required to be tested] prior to installation, provided the licensee or  
22 operator of the container files a [properly] completed LPG Form 23 with AFS [LP-Gas Operations] at the  
23 time LPG Form 500 is submitted for any facility requiring submission of a site plan in accordance with  
24 §9.101 of this title (relating to Filings Required for Stationary LP-Gas Installations).

25 ~~[(d) Any stationary ASME LP-gas container brought into Texas from out-of-state and intended~~  
26 ~~for stationary LP-gas installation in Texas at any facility requiring submission of a site plan shall be tested~~  
27 ~~in accordance with subsection (b) of this section prior to review approval being granted by LP-Gas~~  
28 ~~Operations, unless that container is owned by a valid licensee. In this case, LP-Gas Operations may~~  
29 ~~determine that such tests are not necessary upon the receipt of an acceptable LPG Form 23 from the~~  
30 ~~licensee.]~~

31  
32 §9.116. Container Corrosion Protection System.

33 (a) In addition to NFPA 58, §§6.6.6.1(I), 6.6.2(1), 6.6.3.4(F), and 6.9.3.14 [~~§§6.6.6.1(H);~~  
34 ~~6.6.6.2(1), and 6.6.6.3(4)]], steel containers and piping systems installed underground, partially~~

1 underground, or as mounded installations on or after March 1, 2014, shall include a corrosion protection  
2 system.

3 ~~[(b) A corrosion protection system shall include the following:]~~

4 ~~[(1) a container coated with a material recommended for the service that is applied in~~  
5 ~~accordance with the manufacturer's instructions;]~~

6 ~~[(2) a cathodic protection system that consists of one or more sacrificial anodes or an~~  
7 ~~impressed current anode; and]~~

8 ~~[(3) a means to test the performance of the cathodic protection system.]~~

9 ~~(b) [(c)]~~ Cathodic protection systems installed on or after March 1, 2014, ~~[in accordance with~~  
10 ~~this section]~~ shall be monitored by every licensee servicing the container in accordance with NFPA 58,  
11 §6.17.3.1. Such licensees shall document the test results. ~~[A successful test shall be confirmed by one of~~  
12 ~~the following results:]~~

13 ~~[(1) producing a voltage of -0.85 volts or more negative, with reference to a saturated~~  
14 ~~copper-copper sulfate half cell;]~~

15 ~~[(2) producing a voltage of -0.78 volts or more negative, with reference to a saturated~~  
16 ~~potassium chloride calomel half cell;]~~

17 ~~[(3) producing a voltage of -0.80 volts or more negative, with reference to a silver-silver~~  
18 ~~chloride half cell; or]~~

19 ~~[(4) results obtained through any other method described in Appendix D of Title 49 of the~~  
20 ~~Code of Federal Regulations, Part 192.]~~

21 ~~[(d) Sacrificial anodes installed in accordance with subsection (b) of this section shall be tested in~~  
22 ~~accordance with the following schedule:]~~

23 ~~[(1) upon installation of the cathodic protection system, unless prohibited by climatic~~  
24 ~~conditions, in which case testing shall be completed within 180 days after the installation of the system;]~~

25 ~~[(2) for continued verification of the effectiveness of the system, 12 to 18 months after~~  
26 ~~the initial test;]~~

27 ~~[(3) upon successful verification of test results for the tests required in paragraphs (1) and~~  
28 ~~(2) of this subsection, periodic follow-up testing shall be performed at intervals not to exceed 36 months;]~~

29 ~~[(4) Systems which fail a test prescribed in paragraphs (1) and (2) of this subsection shall~~  
30 ~~be repaired as soon as practical unless climatic conditions prevent such repair, in which case the repair~~  
31 ~~shall be made not more than 180 days thereafter. Systems which fail a test and for which repairs have~~  
32 ~~been made shall comply with the initial and follow-up testing requirements in paragraphs (1) and (2) of~~  
33 ~~this subsection, and the results shall comply with subsection (c) of this section.]~~

34 ~~[(e) Where an impressed current cathodic protection system is installed in accordance with~~

1 ~~subsection (b) of this section, the licensee shall inspect and test the system in accordance with the~~  
2 ~~following schedule:]~~

3 ~~[(1) all sources of impressed current at intervals not exceeding two months, and]~~

4 ~~[(2) all impressed current cathodic protection installations annually.]~~

5 (c) [(f)] The licensee shall retain documentation of test results in accordance with §9.4 of this  
6 title (relating to Records and Enforcement).

7 [(g) The licensee shall visually examine a container prior to its burial for damage to the coating.  
8 Damaged areas shall be repaired with a coating recommended for underground service and compatible  
9 with the existing coating.]

10 [(h) Partially underground, unrounded containers shall be installed so the aboveground portion  
11 of the container complies with NFPA 58 §6.6.1.4.]

12 (d) [(i)] Steel containers and piping systems installed underground, partially underground, or as  
13 mounded installations on or after March 1, 2014, shall not be filled unless a cathodic protection system is  
14 installed in accordance with this section.

15 [(j) Metallic piping and tubing that convey LP-gas from an underground, partially buried, or  
16 mounded storage container shall be installed with dielectric fittings to electrically isolate the container  
17 from the aboveground portion of the fixed piping system that enters a building.]

18  
19 §9.126. Appurtenances and Equipment.

20 (a) All appurtenances and equipment placed into LP-gas service shall be listed by a nationally  
21 recognized testing laboratory such as Underwriters Laboratory (UL), Factory Mutual (FM), or American  
22 Gas Association (AGA) unless:

23 (1) it is specifically prohibited for use by another section of the *LP-Gas Safety Rules*;

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

26 (3) it is used and in compliance with any NFPA standard adopted by the Commission.

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

30 (c) The licensee or operator of the appurtenances or the equipment shall maintain documentation  
31 sufficient to substantiate any claims regarding the safety of any valves, fittings, and equipment and shall,  
32 upon request, furnish copies to AFS [~~LP-Gas Operations~~].

33  
34 §9.129. Manufacturer's Nameplate and Markings on ASME Containers.

1 (a) LP-gas shall not be introduced into an ASME container unless the container is equipped with  
2 an original nameplate or at least one of the nameplates defined in this subsection permanently attached to  
3 the container.

4 (1) Commission identification nameplate--A nameplate issued under the procedures  
5 specified in §9.130 of this title (relating to Commission Identification Nameplates) and attached by an  
6 authorized representative of the Commission for the purpose of identifying an ASME stationary container  
7 when the original nameplate is lost or illegible.

8 (2) Duplicate nameplate--An additional ASME container nameplate issued by the original  
9 manufacturer with duplicate information as the original nameplate and clearly marked as a duplicate  
10 nameplate, but installed in a remote location.

11 (3) Modification (or alteration) nameplate--A nameplate issued and affixed by an ASME  
12 Code facility including only partial information applicable to a modification or alteration performed on  
13 that container.

14 (4) Replacement nameplate--A nameplate including the identical information as the  
15 original nameplate and identified as a replacement nameplate, but issued and affixed by the original  
16 manufacturer or its successor company or companies when the original nameplate is lost or illegible.

17 (b) Nameplate thickness for stainless steel nameplates issued on or after September 1, 1984, shall  
18 be sufficient to resist distortion due to the application of markings and fusion welding.

19 (c) Nameplates shall be attached in a location that will remain visible after installation of the  
20 containers.

21 (d) Nameplates on stationary ASME containers built prior to September 1, 1984, shall include at  
22 least the following legible information:

- 23 (1) the name of container manufacturer;  
24 (2) the manufacturer's serial number;  
25 (3) the container's working pressure; ~~and~~  
26 (4) the container's water capacity; and  
27 (5) the ASME Code symbol.

28 (e) Nameplates on stationary ASME containers built on or after September 1, 1984, shall be  
29 stainless steel and permanently attached to the container by continuous fusion welding around the  
30 perimeter of the nameplate, and shall be stamped or etched with the ~~following~~ information required by  
31 NFPA 58, §5.2.8.3(c) and §11.3.4(B) in characters at least 5/32 inch high:

- 32 [~~(1) service for which the container is designed (underground, aboveground, or both);~~]  
33 [~~(2) name and address of container supplier or trade name of container;~~]  
34 [~~(3) water capacity of container in pounds or U.S. gallons;~~]

1                    [~~(4) design pressure in pounds per square inch;~~]

2                    [~~(5) the wording "This container shall not contain a product that has a vapor pressure in~~  
3 excess of \_\_\_\_\_ psi at 100 degrees F";]

4                    [~~(6) outside surface area in square feet;~~]

5                    [~~(7) year of manufacture;~~]

6                    [~~(8) shell thickness and head thickness;~~]

7                    [~~(9) overall length of the container, the outside diameter of the container, and dish radius~~  
8 of the heads;]

9                    [~~(10) manufacturer's serial number;~~]

10                   [~~(11) ASME Code symbol;~~]

11                   [~~(12) minimum design metal temperature \_\_\_\_\_ F degrees at MAWP \_\_\_\_\_ psi;~~]

12                   [~~(13) type of construction "W", and]~~

13                   [~~(14) degree of radiography "RT-\_\_\_\_\_".]~~

14                   (f) Any replacement nameplate issued by an original container manufacturer for containers  
15 constructed prior to September 1, 1984, shall be stainless steel and shall be affixed in accordance with  
16 ASME Code. The owner or operator of the container shall ensure that a copy of LPG Form 8 is filed with  
17 AFS [~~LP-Gas Operations~~] when a replacement nameplate is affixed.

18                   (g) Nameplates on LP-gas motor or mobile fuel tanks shall be permanently attached in a manner  
19 which will minimize corrosion of the nameplate or its fastening means and not contribute to corrosion of  
20 the container. If the nameplate is not continuously welded to the container, then it shall be raised at least  
21 1/4 inch but no more than 1/2 inch from the container's surface.

22                   (h) In addition to a container nameplate, underground containers shall have a system nameplate  
23 permanently attached to the system in a location that will be readily accessible for inspection when the  
24 containers are buried. Where the container is buried, mounded, insulated, or otherwise covered so the  
25 nameplate is obscured, a duplicate nameplate shall be installed in a clearly visible and accessible location.

26                   (i) AFS [~~LP-Gas Operations~~] may remove a container from LP-gas service or require ASME  
27 acceptance of a container at any time if AFS [~~LP-Gas Operations~~] determines that the nameplate, in any  
28 form defined in subsection (a)(1) - (4) of this section, is loose, unreadable, or detached, or if it appears to  
29 be tampered with or damaged in any way and does not contain at a minimum the items defined in  
30 subsection (d) of this section.

31  
32 §9.130. Commission Identification Nameplates.

33                   (a) Prior to an original ASME nameplate or any manufacturer-issued nameplate becoming  
34 unreadable or detached from a stationary container with a water capacity of 4,001 gallons or more, the

1 owner or operator of the container may request an identification nameplate from AFS [~~LP-Gas~~  
2 ~~Operations~~]. Commission identification nameplates shall be issued only for containers which can be  
3 documented as being in continuous LP-gas service in Texas from a date prior to September 1, 1984. The  
4 container's serial number and manufacturer on the original or manufacturer-issued nameplate shall be  
5 clearly readable at the time the Commission identification nameplate is attached.

6 (1) The owner or operator of the container shall submit LPG Form 502 including clear  
7 photographs of the container showing:

8 (A) nozzle openings;

9 (B) front, rear, and side views;

10 (C) location of the nameplate;

11 (D) detailed view of the nameplate; ~~and~~

12 (E) if a photograph cannot clearly depict the lettering on the nameplate, a pencil  
13 rubbing of the nameplate shall be submitted; and

14 (F) other information requested by AFS.

15 (2) AFS [~~LP-Gas Operations~~] shall review LPG Form 502 and the supporting  
16 documentation. [~~LP-Gas Operations shall have the manufacturer's data report on file for the container or~~  
17 ~~the licensee shall provide a copy to LP-Gas Operations. The Commission identification nameplate shall~~  
18 ~~not be issued unless the manufacturer's data report is reviewed.~~] Upon review of submitted documents,  
19 AFS shall send written notice to the applicant of its determination.

20 (A) If deficiencies are found, the notice will list the items or information needed  
21 to proceed with the application. The applicant shall respond to the written notice within 30 calendar days  
22 or the application will be withdrawn.

23 (B) If AFS approves a nameplate, the notice will state [~~and confirmation of the~~  
24 ~~manufacturer's data report, LP-Gas Operations shall mail a letter to the owner or operator of the container~~  
25 ~~stating~~] the estimated costs, which will be based on the following:

26 (1) [~~(A)~~] actual cost of the nameplate itself, including adhesive and other  
27 materials necessary to attach the nameplate; and

28 (2) [~~(B)~~] projected travel costs for the Commission employee  
29 performing the inspection and/or attachment of the nameplate, at a cost of \$60 plus the mileage and rate  
30 from Austin as set by the official state travel mileage chart.

31 (3) The owner or operator of the container shall pay the total estimated costs to AFS [~~LP-~~  
32 ~~Gas Operations~~] before AFS [~~LP-Gas Operations~~] will proceed. Within 15 business days of receipt of all  
33 required documents and fees, AFS [~~LP-Gas Operations~~] shall:

34 (A) verify that it has continuous documentation for the container, showing the

1 container in LP-gas service in Texas prior to September 1, 1984;

2 (B) inspect the container to ensure that the container is not dented, pitted, or  
3 otherwise damaged, and complies with other applicable LP-Gas Safety Rules, unless additional time is  
4 necessary as determined by the AFS [~~LP-Gas Operations~~] director; and

5 (C) advise the owner or operator that the container shall be tested if it appears to  
6 be pitted or otherwise damaged.

7 (i) If the owner or operator refuses to test the container, it shall be  
8 removed from service within 10 calendar days of the date of inspection.

9 (ii) If the container passes the test, AFS [~~LP-Gas Operations~~] shall  
10 proceed with the attachment of the nameplate.

11 (D) Within the 15-day period, AFS [~~LP-Gas Operations~~] shall notify the  
12 applicant in writing, in clear and specific language, of the outcome of AFS' [~~LP-Gas Operations~~'] review.

13 (4) Following AFS' [~~LP-Gas Operations~~'] review of any required tests and payment [~~of all~~  
14 ~~other amounts due in addition to the previously-paid estimated costs~~], and if AFS determines that [~~when~~]  
15 all requirements have been met, AFS [~~LP-Gas Operations~~] shall issue an identification nameplate for the  
16 container.

17 (5) The Commission identification nameplate shall be stainless steel, stamped or etched  
18 with the Commission's mark or symbol, and attached by a Commission employee using an adhesive  
19 material. Nameplates shall include the wording and information as follows:

20 (A) Railroad Commission of Texas LP-Gas Container Identification Nameplate;

21 (B) RRC ID No. \*00000\*; and

22 (C) For Identification Only.

23 (6) Commission identification nameplates shall be affixed only by a Commission  
24 employee and shall be affixed at the Commission's convenience.

25 (b) Commission identification nameplates shall serve only to identify the container as being an  
26 ASME container and shall in no way indicate the condition of the container or whether it is safe for LP-  
27 gas service.

28 (c) Commission identification nameplates shall not be valid until AFS [~~LP-Gas Operations~~] has  
29 received the final paperwork from the Commission employee who attached the nameplate. AFS [~~LP-Gas~~  
30 ~~Operations~~] shall mail a letter to the owner or operator of the container stating the date on which the  
31 nameplate is valid.

32 (d) If at any time during the Commission identification nameplate request or approval process,  
33 the original ASME nameplate becomes completely unreadable or detached, the owner or operator of the  
34 container shall immediately remove the container from service and no Commission identification

1 nameplate shall be issued or attached. In addition, AFS [~~LP-Gas Operations~~] may remove such a  
2 container from service as specified in §9.129(i) of this title (relating to Manufacturer's Nameplate and  
3 Markings on ASME Containers).

4 (e) If the Commission employee finds upon inspection of a container prior to the attachment of  
5 the Commission identification nameplate that the container does not pass inspection, for whatever reason,  
6 the inspector shall not attach the nameplate, but shall return the nameplate and all paperwork to the  
7 Commission's Austin office.

8 (f) Fees charged for the Commission identification nameplate are nonrefundable except as  
9 described in this subsection. The cost of the nameplate is refundable only if the Commission employee  
10 finds upon actual inspection of the container that the original nameplate has become totally detached or  
11 unreadable, or that the container is pitted, dented, or otherwise damaged, therefore prohibiting attachment  
12 of the nameplate. The fees charged relating to AFS' [~~LP-Gas Operations~~] travel and research costs will be  
13 refunded only if AFS' [~~LP-Gas Operations~~] research shows that the nameplate cannot be issued.  
14 Otherwise, these fees will be nonrefundable if these activities have taken place before the Commission  
15 employee inspects a container and finds that a nameplate cannot be issued.

16  
17 §9.131. 200 PSIG Working Pressure Stationary Vessels.

18 In addition to NFPA 58, §5.2.4.2 and 5.7.2.5, [~~5.7.2.4~~] 200 psig working pressure stationary  
19 vessels in LP-gas service in Texas prior to September 1, 1981, may be continued in service for  
20 commercial propane provided that they are fitted with pressure relief valves set for 250 psig normal start  
21 to discharge and comply with other provisions of this chapter. For the purpose of this section,  
22 "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100 degrees  
23 Fahrenheit. This section does not apply to LP-gas motor fuel and mobile fuel containers.

24  
25 §9.132. Sales to Unlicensed Individuals.

26 A licensee shall not sell LP-gas, an ASME [~~or an LP-gas~~] container, or a DOT cylinder greater  
27 than 100 pounds to an unlicensed individual for resale. A licensee shall not sell an LP-gas container to an  
28 unlicensed individual for installation at a commercial installation without determining that such container  
29 will be installed by a licensee authorized to perform such installation.

30  
31 §9.134. Connecting Container to Piping.

32 LP-gas piping shall be installed only by a licensee authorized to perform such installation, a  
33 registrant authorized by §9.13 of this title (relating to General Installers and Repairman Exemption), or an  
34 individual exempted from licensing as authorized by Texas Natural Resources Code, §113.081. A

1 licensee shall not connect an LP-gas container or cylinder to a piping installation made by a person who is  
2 not licensed to make such installation, except that connection may be made to piping installed by an  
3 individual on that individual's single family residential home. A licensee may connect to piping installed  
4 by an unlicensed person provided the licensee has performed a pressure test, verified that the piping is  
5 free of leaks and has been installed according to the LP-Gas Safety Rules, and filed with AFS a [~~property-~~  
6 ]completed LPG Form 22 within 14 days of connecting to the piping system [~~with LP-Gas Operations~~],  
7 identifying the unlicensed person who installed the LP-gas piping.  
8

9 §9.135. Unsafe or Unapproved Containers, Cylinders, or Piping.

10 In addition to NFPA 58, §§5.2.1.1, 7.2.2.13 [~~7.2.2.11~~], and 5.2.2.2, a licensee or the licensee's  
11 employees shall not introduce LP-gas into any container or cylinder if the licensee or employee has  
12 knowledge or reason to believe that such container, cylinder, piping, or the system or the appliance to  
13 which it is attached is unsafe or is not installed in accordance with the statutes or the LP-Gas Safety  
14 Rules.  
15

16 §9.136. Filling of DOT Containers.

17 (a) In addition to NFPA 58 §7.4.2.1, DOT containers of less than 101 pounds LP-gas capacity,  
18 other than containers designed to be used on forklift or industrial trucks, shall be filled by weight only.  
19 The weight of such containers shall be determined by scales that meet the specifications of the National  
20 Institute of Standards and Technology's Handbook 44. Scales at licensees' facilities shall be currently  
21 registered with the Texas Department of Agriculture. The scales shall have a rated weighing capacity  
22 which exceeds the total weight of the cylinders being filled. The scales shall be accurate during the filling  
23 of the cylinder. The formula for filling LP-gas containers by weight under this section is as follows:

24 (1) The propane capacity in pounds is determined by multiplying the total water capacity  
25 in pounds by .42.

26 (2) The proper scale setting is the total of [Add] the tare weight of the [a] cylinder, the  
27 propane capacity in pounds, and [to the liquid weight of the product plus] the weight of the hose and  
28 nozzle. [The total weight of these three is the proper scale setting.]

29 (b) Containers designed to be used on forklifts or industrial trucks shall be filled as specified in  
30 NFPA 58, §11.13 [~~§11.12~~].

31 (c) Cylinders approved by the Federal Aviation Administration (FAA) for use in hot air balloons  
32 may be filled by volume. The cylinders do not have to be removed from the hot air balloon or jacketing  
33 used in the hot air balloon. The cylinder or hot air balloon shall not be located within a trailer during the  
34 filling process.

1 §9.137. Inspection of Cylinders at Each Filling.

2 In addition to NFPA 58, §§5.2.1.1, 7.2.2.13 [~~7.2.2.11~~], and 5.2.2 before filling a container or  
3 cylinder, the individual filling the container or cylinder shall conduct a visual inspection of the exposed,  
4 readily accessible areas of the container or cylinder for any obvious defects. Where the container or  
5 cylinder is dented, bulged, gouged, or corroded such that the integrity of the container or cylinder is  
6 substantially reduced, such container or cylinder shall not be filled.

7  
8 §9.140. System [~~Uniform~~] Protection Requirements [~~Standards~~].

9 [~~(a) In addition to NFPA 58 §6.24.3.14, LP-gas transfer systems and storage containers shall be~~  
10 ~~protected from tampering and/or vehicular traffic as specified in this section. New LP-gas containers~~  
11 ~~which have never been installed or had LP-gas introduced into them, or other installations listed in~~  
12 ~~paragraphs (1) - (4) of this subsection, are not required to comply with the fencing and guard railing~~  
13 ~~requirements in subsections (b) and (d) of this section. The fencing and guard railing requirements also do~~  
14 ~~not apply to the following:]~~

15 [~~(1) LP-gas systems and containers located at private residences;]~~

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

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

21 (a) [(4)] Stationary LP-gas installations, including LP-gas transfer systems, dispensing systems,  
22 and storage containers, shall be protected from tampering and damage as specified in this section.

23 (b) LP-gas storage containers located on a rural consumer's property from which motor or mobile  
24 fuel containers are filled are not required to comply with the fencing and guardrailing requirements in  
25 subsections (c) and (d) of this section.

26 (c) [(b)] In addition to NFPA 58, §§6.19.4.2, 6.20.3.2(3), 6.25.3.7 [~~§§6.18.4.2, 6.19.3.2,~~  
27 ~~6.24.3.7~~], 7.2.3.8, 8.2.1.1, 8.4.2.1(1), and 6.4.5.5, [~~and 8.4.2.1~~] fencing at LP-gas installations shall  
28 comply with the following:

29 [(1) Fencing material shall be chain link with wire at least 12 1/2 American wire gauge in  
30 size, or industrial-type fencing, or material providing equivalent protection as determined by LP-Gas  
31 Operations.]

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

33 (1) [(3)] Uprights, braces, and cornerposts of the fence shall be composed of  
34 noncombustible material and shall be anchored in concrete a minimum of 12 inches below the ground.

1           (2) ~~[(4)]~~ Gates in fences where bulkheads are installed shall be located directly in front  
2 of the bulkhead. Gates shall be locked whenever the area enclosed is unattended. Gate posts on gates  
3 installed directly in front of the bulkhead shall be located at 45-degree angles to the nearest corner of the  
4 bulkhead. ~~[There shall be at least two means of emergency access from the fenced enclosure. If guard  
5 service is provided, it shall be extended to the LP-gas installation. Guard service shall be properly trained  
6 as set forth in §9.51(b)(4) of this title (relating to General Requirements for Training and Continuing  
7 Education). However, if a fenced area is not larger than 100 square feet in area, the point of transfer is  
8 within three feet of a gate, and any containers being filled are not located within the enclosure, a second  
9 gate shall not be required.]~~

10           ~~[(5) Clearance of at least three feet shall be maintained between the fencing and the  
11 container and the entire transfer system.]~~

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

16           ~~[(7) The operating end of a container, including the entire transfer system, shall be  
17 completely enclosed by fencing.]~~

18           ~~[(c) Containers which are exempt from the fencing requirements include:]~~

19           (3) ~~[(4)]~~ ASME containers or manual dispensers originally manufactured to or modified  
20 to be considered by AFS [LP-Gas Operations] as self-contained units are exempt from the fencing  
21 requirements. Self-contained units shall be protected as specified in subsection (d) of this section;

22           (4) LP-gas containers located at a private residence are exempt from the fencing  
23 requirements.

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

26           ~~[(3) DOT portable or forklift containers that have been used in LP-gas service but are not  
27 awaiting use or resale:]~~

28           (d) ~~[(d)]~~ In addition to NFPA 58, §§6.6.1.2, 6.6.1(A)-(E), 6.6.2(F), and 6.25.3.4 ~~[6.6.6.1(a)-(d);~~  
29 ~~6.6.6.2(6), 6.18.4.2, 6.24.3.12, and 8.4.2]~~, guardrails at LP-gas installations, except as noted in this  
30 section ~~[subsection (a) of this section]~~, shall comply with the following:

31           ~~[(1) In addition to NFPA 58 §6.18.4.2(c), where fencing is not used to protect the  
32 installation as specified in subsection (b) of this section, locks for the valves or other suitable means shall  
33 be provided to prevent unauthorized withdrawal of LP-gas, and guardrailing specified in paragraphs (2)-  
34 (6) of this subsection, or protection considered by AFS [LP-Gas Operations] to be equivalent, shall be~~

1 ~~required.]~~

2 (1) ~~[(2)]~~ Vertical supports for guardrails shall be at least three-inch schedule 40 steel  
3 pipe or other material with equal or greater strength. The vertical supports shall be capped on the top or  
4 otherwise protected to prevent the entrance of water or debris into the guardpost; anchored in concrete at  
5 least 18 inches below the ground; and rise at least 30 inches above the ground. Supports shall be spaced  
6 four feet apart or less.

7 (2) ~~[(3)]~~ The top of the horizontal guardrailing shall be secured to the vertical supports at  
8 least 30 inches above the ground. The horizontal guardrailing shall be at least three-inch schedule 40 steel  
9 pipe or other material with equal or greater strength. The horizontal guardrailing shall be capped on the  
10 ends or otherwise protected to prevent the entrance of water or debris into the guardpost; and welded or  
11 bolted to the vertical supports with bolts of sufficient size and strength to prevent damage to the protected  
12 equipment under normal conditions, including the nature of the traffic to which the protected equipment  
13 is subjected.

14 (3) Locations which have a perimeter fence prohibiting public traffic to the container or  
15 cylinder storage area shall not be required to have guardrailing if the guardposts are located no more than  
16 three feet apart.

17 (4) Openings in horizontal guardrailing, except the opening that is permitted directly in  
18 front of a bulkhead, shall not exceed three feet. Only one opening is allowed on each side of the  
19 guardrailing. A means of temporarily removing the horizontal guardrailing and vertical supports to  
20 facilitate the handling of heavy equipment may be incorporated into the horizontal guardrailing and  
21 vertical supports. In no case shall the protection provided by the horizontal guardrailing and vertical  
22 supports be decreased. Transfer hoses from the bulkhead shall be routed only through the 45-degree  
23 opening in front of the bulkhead or over the horizontal guardrailing.

24 (5) Clearance of at least three feet shall be maintained between the railing and any part of  
25 an LP-gas transfer system or container or clearance of two feet for retail cylinder filling or service station  
26 installations. The two posts at the ends of any railing which protects a bulkhead shall be located a  
27 minimum of 24 and a maximum of 36 inches at 45-degree angles to the nearest corner of the bulkhead.

28 (6) The operating end of the container and any part of the LP-gas transfer system or  
29 container which is exposed to collision damage or vehicular traffic shall be protected from this type of  
30 damage. The protection shall extend at least three feet beyond any part of the LP-gas transfer system or  
31 container which is exposed to collision damage or vehicular traffic.

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

34 ~~(e) [(f)]~~ If exceptional circumstances exist or will exist at an installation which would require

1 additional protection such as larger-diameter guardrailing, then the licensee or operator shall install such  
2 additional protection. In addition, AFS [~~LP-Gas Operations~~] at its own discretion may require an  
3 installation to be protected with added safeguards to adequately protect the health, safety, and welfare of  
4 the general public. AFS [~~LP-Gas Operations~~] shall notify the person in writing of the additional  
5 protection needed and shall establish a reasonable time period during which the additional protection shall  
6 be installed. The licensee shall ensure that any necessary extra protection is installed. If a person owning  
7 or operating such an installation disagrees with AFS' [~~LP-Gas Operations~~] determination made under this  
8 subsection, that person may request a public hearing on the matter. The installation shall either be  
9 protected in the manner prescribed by AFS [~~LP-Gas Operations~~] or removed from service with all product  
10 withdrawn from it until AFS' [~~LP-Gas Operations~~] final decision.

11 (f) Fencing, guardrails, and valve locks shall be maintained in good condition at all times in  
12 accordance with this chapter.

13 (g) In addition to NFPA 58 §5.2.8.1, LP-gas installations shall comply with the sign and lettering  
14 requirements specified in Table 1 of this section. An asterisk indicates that the requirement applies to the  
15 equipment or location listed in that column.

16 Figure: 16 TAC §9.140(g) (No change.)

17 (1) Unless colors are specified, lettering shall be in a color that sharply contrasts to the  
18 background color of the sign, and shall be readily visible to the public.

19 (2) Items 1, 2, and 3 in Table 1 may be combined on one sign.

20 (3) Items 1, 2, and 3 in the column entitled "Licensee or Non-Licensee ASME 4001+  
21 Gal. A.W.C." in Table 1 apply to installations with 4,001 gallons or more aggregate water capacity  
22 protected only by guardrailing as required in subsection (d) of this section, and bulkheads as required by  
23 §9.143 of this title (relating to Bulkhead, Internal Valve, API 607 Ball Valve, and ESV Protection for  
24 Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More)  
25 for commercial, bulk storage, cylinder filling, or forklift installations.

26 (4) Item 7 in the column entitled "Storage Racks for DOT Portable or Forklift  
27 Containers" in Table 1 may be met with lettering only one rack when multiple racks are installed.

28 (5) [(4)] Item 11 in the column entitled "Requirements" in Table 1 applies to facilities  
29 which have two or more containers.

30 (6) [(5)] Item 13 in the column entitled "Requirements" in Table 1 applies to outlets  
31 where an LP-gas certified employee is responsible for the LP-gas activities at that outlet, when a  
32 licensee's employee is the operations supervisor at more than one outlet as required by §9.17(a) of this  
33 title (relating to Designation and Responsibilities of Company Representative and Operations  
34 Supervisor).

1           (7) [(6)] Any information in Table 1 of this subsection required for an underground  
2 container shall be mounted on a sign posted within 15 feet horizontally of the manway or the container  
3 shroud.

4           (8) [(7)] Licensees and non-licensees shall comply with operational and/or procedural  
5 actions specified by the signage requirements of this section.

6           (9) [(8)] Any 24-hour emergency telephone numbers shall be:

7                   (A) monitored at all times; and

8                   (B) be answered by a person who is knowledgeable of the hazards of LP-gas and  
9 who has comprehensive LP-gas emergency response and incident information, or has immediate access to  
10 a person who possesses such knowledge and information. A telephone number that requires a call back  
11 (such as an answering service, answering machine, or beeper device) does not meet the requirements of  
12 this section.

13           (g) [(h)] In addition to NFPA 58, §.4.2.2, storage [Storage] racks used to store nominal 20-pound  
14 DOT portable or any size forklift containers shall be protected against vehicular damage by:

15                   (1) the use of concrete curbs and/or wheelstops, provided:

16                           (A) the cylinder storage rack is located a minimum of 48 inches behind a curb or  
17 wheel stop that is a minimum of five inches in height above the grade of the driveway or parking area;

18                           (B) if the requirements of subparagraph (A) cannot be met, the cylinder storage  
19 rack must be installed a minimum of 48 inches behind a curb or wheel stop that is a minimum of four  
20 inches in height above the grade of the driveway or parking area, and a wheel stop at least four inches in  
21 height must be installed at least 12 inches from the curb or first wheel stop;

22                           (C) All parking wheel stops and cylinder storage racks must be secured against  
23 displacement.

24                   [(1) meeting the guardrail requirements of subsection (d) of this section; or]

25                   (2) if curbs and/or wheel stops are not installed, guard posts or guardrailing shall be  
26 installed [installing guard posts], provided:

27                           (A) [~~effective February 1, 2008, for new installations;~~] the guard posts are  
28 installed a minimum of 18 inches from each storage rack and consist of at least three-inch schedule 40  
29 steel pipe, capped on top or otherwise protected to prevent the entrance of water or debris into the guard  
30 post, no more than four feet apart, and anchored in concrete at least 12 [~~30~~] inches below ground and  
31 rising at least 30 inches above the ground; [~~or~~]

32                           (B) [~~effective February 1, 2008, for new installations;~~] the guard posts are  
33 installed a minimum of 18 inches from each storage rack and are constructed of at least four-inch  
34 schedule 40 steel pipe capped on top or otherwise protected to prevent the entrance of water or debris into

1 the guard post, and attached by welding to a minimum 8-inch by 8-inch steel plate at least 1/2 inch thick.  
2 The installed height of the post must be a minimum of 30 inches above the ground. The guard posts and  
3 steel plate shall be permanently installed and securely anchored to a concrete driveway or concrete  
4 parking area; or

5 (C) the guard posts or guardrailing meets the requirements of subsection (d) of  
6 this section.

7 [~~(3)~~ Guardrail or guard posts are not required to be installed if:]

8 [(A) the cylinder storage rack is located a minimum of 48 inches behind a  
9 concrete curb or concrete wheel stop that is a minimum of five inches in height above the grade of the  
10 driveway or parking area;]

11 [(B) if the requirements of subparagraph (A) cannot be met, the cylinder storage  
12 rack must be installed a minimum of 48 inches behind a concrete curb or concrete wheel stop that is a  
13 minimum of four inches in height above the grade of the driveway or parking area, and a concrete wheel  
14 stop at least four inches in height must be installed at least 12 inches from the curb or first wheel stop;]

15 [~~(4)~~ All parking wheel stops and cylinder storage racks in paragraph (3) of this subsection  
16 must be secured against displacement.]

17 (h) [(†)] Self-service dispensers shall be protected against vehicular damage by:

18 (1) guardrails that comply with subsection (d) [~~(d)(2)~~-(6)] of this section; or

19 (2) guard posts that comply with subsection (d) [~~(d)(2)~~] of this section; or

20 (3) where routine traffic patterns expose only the approach end of the dispenser to  
21 vehicular damage, support columns, concrete barriers, bollards, inverted U-shaped guard posts anchored  
22 in concrete, or other protection acceptable to AFS [~~LP-Gas Operations~~], provided:

23 (A) such protection extends beyond the framework of the dispenser; and

24 (B) at least 24 inches of clearance is maintained between the approach end of the  
25 dispenser and the protective barrier.

26 (4) Self-service dispensers utilizing protection specified in paragraphs (2) - (3) of this  
27 subsection shall be connected to supply piping by a device designed to prevent the loss of LP-gas in the  
28 event the dispenser is displaced. The device must retain liquid on both sides of the breakaway point and  
29 be installed in a manner to protect the supply piping against damage.

30  
31 §9.141. Uniform Safety Requirements.

32 (a) In addition to NFPA 58, §6.6.1.4, containers shall be painted as follows:

33 (1) ASME containers, except vaporizers, shall be painted white or aluminum, or any  
34 other heat-reflective color (such as light green, light blue, etc.). Darker, heat-absorbing colors (such as

1 black, navy blue, etc.) shall not be permitted.

2 (2) If AFS [~~LP-Gas Operations~~] disapproves of a certain color, the licensee or ultimate  
3 consumer shall provide to AFS [~~LP-Gas Operations~~] information from the container or paint  
4 manufacturer stating specific reasons why the color is heat-reflective and should be approved. The AFS  
5 [~~LP-Gas Operations~~] director shall make the final determination and shall notify the licensee or ultimate  
6 consumer.

7 (b) In addition to NFPA 58, §6.25.4.2 [~~§6.24.4.2~~], each LP-gas private or public motor/mobile or  
8 forklift refueling installation which includes a liquid dispensing system shall incorporate into that  
9 dispensing system a breakaway device.

10 (1) Any vapor return hose installed at such installations shall also be equipped with a  
11 breakaway device.

12 (2) LP-gas installations at which forklift cylinders are completely removed from the  
13 forklift before being filled are not required to have a breakaway device.

14 (3) In addition to NFPA 58, §6.25.4.1, the overall length of hose on vehicle fuel  
15 dispensers used to transfer LP-gas into engine fuel and mobile containers on vehicles shall not exceed 18  
16 feet measured from the point where the hose attaches to rigid piping downstream of the pump to the end  
17 of the dispensing hose. If a section of hose not exceeding 36 inches in length is installed for flexibility  
18 between the listed emergency breakaway device and the rigid piping downstream of the pump, then the  
19 18 feet of dispensing hose will be measured from the outlet of the emergency breakaway device.

20 (c) [~~Locking handles on ball-type shutoff valves~~]. Any ball-type shutoff valve less than two  
21 inches in size shall have a locking handle. If a ball-type shutoff valve of any size has a locking handle  
22 installed at the terminal end of the hose, the main liquid and/or vapor valves or main shutoff valves on the  
23 stationary container at an attended installation may remain open as long as the locking handle on the  
24 transfer hose remains locked until the transfer hose is properly connected. If a ball-type shutoff valve two  
25 inches or larger in size does not have a locking handle, the main liquid and/or vapor valves or main  
26 shutoff valves on the stationary container shall remain closed at all times and shall not be opened until the  
27 transfer hose is properly connected or disconnected.

28 (d) [~~Pumps~~]. A retail operated DOT portable container filling installation and/or service station  
29 installation shall be equipped with a pump.

30 (e) In addition to NFPA 58, §5.2.8.1, all containers shall be numbered in accordance with the  
31 requirements set forth in Table 1 of §9.140 of this title (relating to Uniform Protection Standards).

32 (f) In addition to NFPA 58, §6.4.5 [~~§6.4.7~~], no canopies or coverings are allowed over any  
33 stationary ASME [~~LP-gas~~] container of 125 gallons or more or over loading and unloading areas where  
34 LP-gas transport transfer operations are performed. Non-combustible wind breaks and other weather

1 protection may be installed in accordance with NFPA 58, §§6.5.1.1 and 6.25.3.3 to provide employees  
2 and customers protection against the elements of weather, but shall not be installed over any portion of an  
3 LP-gas container.

4 (g) Any container that may have contained product other than LP-gas shall be thoroughly cleaned  
5 and purged prior to introducing LP-gas into such container. Only grades of LP-gas determined to be  
6 noncorrosive may be introduced into any container. LP-gas may not contain anhydrous ammonia,  
7 hydrogen sulfide, or any other contaminant.

8 (1) If it is known or suspected that the LP-gas has been or may be contaminated, the  
9 person responsible for the contamination shall have one or more of the tests contained in "Liquefied  
10 Petroleum Gas Specifications for Test Methods, Gas Processors Association (GPA) 2140" performed by a  
11 testing laboratory or individual qualified to perform the tests. AFS [~~LP-Gas Operations~~] may request  
12 information necessary to determine the qualification of any testing laboratory or individual.

13 (2) The results of the tests shall certify whether the LP-gas is contaminated or corrosive,  
14 whether the use of the LP-gas in the containers will damage either the stationary or non-stationary  
15 containers or the container valves, fittings, or appurtenances, or whether the contaminated product or  
16 container or container valves, fittings, or appurtenance will endanger the health, safety, and welfare of the  
17 general public.

18 (3) Based on the results of the tests, AFS [~~LP-Gas Operations~~] may require that the LP-  
19 gas be removed immediately from the container or that the container be removed immediately from LP-  
20 gas service.

21 (h) A container designed for underground installation only shall not contain liquid fuel at any  
22 time the container is aboveground or uncovered.

23 (i) Racks used to store cylinders awaiting use or resale shall be installed on firm, level ground.  
24 In addition to NFPA 58, §8.4.1.1, a distance of five feet shall be maintained between the rack and any  
25 source of ignitions and combustible materials.

26  
27 §9.142. LP-Gas Container Storage and Installation Requirements.

28 Except as noted in this section and in addition to NFPA 58 §6.3.1.1 [~~§6.3.1~~], LP-gas containers  
29 shall be stored or installed in accordance with the distance requirements in NFPA 58, §§6.2.2, 6.4.4  
30 [~~6.4.5~~], and 8.4.1 and any other applicable requirements in NFPA 58 or the LP-Gas Safety Rules.

31 (1) An LP-gas liquid dispensing installation other than a retail operated DOT portable  
32 container filling/service station installation is not required to have a pump, provided that the storage  
33 containers are located one and one half times the required distances specified in NFPA 58, §6.3.1.1  
34 [~~§6.2.2~~], or a minimum distance of 15 feet if the storage container is less than 125 gallons water capacity.

1 (2) Any LP-gas container constructed prior to 1970 which has an odd-numbered water  
2 gallon capacity (for example, 517 water gallons instead of 500 water gallons) that is not more than 5.0%  
3 greater than the standard water gallon capacity may be installed utilizing the minimum distance  
4 requirement based on the standard water gallon capacity.

5 (3) NFPA 58, §1.3.2(11) requires compliance with NFPA 30A for installations where  
6 LP-gas dispensers are located at multiple-fuel refueling stations. NFPA 30A, §12.3.3, as adopted by  
7 reference in §9.401 of this title (relating to Adoption by reference of NFPA 58), requires LP-gas  
8 aboveground tanks to be separated from dispensing devices that dispense liquid or gaseous motor vehicle  
9 fuels by at least 50 feet. The 50-foot requirement may be reduced to 20 feet if a curb, dike, or grading is  
10 permanently installed no closer than 10 feet to the LP-gas tank.

11  
12 §9.143. Piping and Valve [Bulkhead, Internal Valve, API 607 Ball Valve, and ESV] Protection for  
13 Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.

14 (a) Instead of NFPA 58, §6.12 [§6.6.12], all [effective February 1, 2001,] new stationary LP-gas  
15 installations with individual or aggregate water capacities of 4,001 gallons or more[; including licensee  
16 and nonlicensee locations;] shall:

17 (1) install a vertical bulkhead complying with subsection (d) of this section; [,] and

18 (2) install one of the following in [for] all container openings 1 1/4 inches or greater,  
19 [pneumatically-operated emergency shutoff valves (ESV), pneumatically-operated internal valves, or  
20 pneumatically-operated API 607 ball valves] as required in this section and in the table in §9.403 of this  
21 title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted With Changes or  
22 Additional Requirements): [for NFPA 58, §6.11.1. In lieu of a pneumatically-operated internal valve or a  
23 pneumatically-operated ESV, a backflow check valve may be installed where the flow is in one direction  
24 into the container. The backflow check valve shall have a metal-to-metal seat or a primary resilient seat  
25 with metal backup, not hinged with combustible material, and shall be designed for this specific  
26 application]

27 (A) pneumatically-operated emergency shutoff valves (ESV);

28 (B) pneumatically-operated internal valves;

29 (C) pneumatically-operated API 607 ball valves; or

30 (3) in lieu of the ESV or internal valve specified in paragraph (2)(A) and (B) of this  
31 subsection, a backflow check valve may be installed where the flow is in one direction into the container.  
32 The backflow check valve shall have a metal-to-metal seat or a primary resilient seat with metal backup,  
33 not hinged with combustible material, and shall be designed for the specific application.

34 (b) Valve protection requirements.

1 (1) The pneumatic ESV and/or backflow check valves shall be installed in the fixed  
2 piping of the transfer system upstream of the bulkhead and within four feet of the bulkhead with a  
3 stainless steel flexible wire-braided hose not more than 36 inches long installed between the ESV and the  
4 bulkhead.

5 (2) The ESV shall be installed in the piping so that any break resulting from a pull away  
6 will occur on the hose or swivel-type piping side of the connection while retaining intact the valves and  
7 piping on the storage side of the connection and will activate the ESV at the bulkhead and the internal  
8 valves, ESV, and API 607 ball valves at the container or containers. Provisions for anchorage and  
9 breakaway shall be provided on the cargo tank side for transfer from a railroad tank car directly into a  
10 cargo tank. Such anchorage shall not be required from the tank car side.

11 (3) Pneumatically-operated ESV, internal valves, and API 607 ball valves shall be  
12 equipped for automatic shutoff using thermal (fire) actuation where the thermal element is located within  
13 five feet (1.5 meters) of the ESV, internal valves, and/or API 607 ball valves. Temperature sensitive  
14 elements shall not be painted nor shall they have any ornamental finishes applied after manufacture.

15 (4) Internal valves, ESVs, and backflow check valves shall be tested annually for  
16 working order. The results of the tests shall be documented in writing and kept in a readily accessible  
17 location for one year following the performed tests.

18 (5) Pneumatically-operated internal valves, ESV, and API 607 ball valves shall be  
19 interconnected and incorporated into at least one remote operating system. All new and existing systems  
20 shall shut off the flow of product within 30 seconds of activation.

21 (c) ~~[(b)]~~ In addition to NFPA 58, §§5.7.4.1 and 5.7.4.2, as amended by §9.403 of this title, all  
22 [\$5.9.6, within two years of February 1, 2001, or by February 1, 2003, at the latest,] stationary LP-gas  
23 installations [in existence as of February 1, 2001, with individual or aggregate water capacities of 4,001  
24 gallons or more, including licensee and nonlicensee locations,] or railroad tank car transfer systems to fill  
25 trucks with no stationary storage involved[, which do not have a bulkhead, ESV, and/or backflow check  
26 valves where the flow is in one direction into the container] shall have [install] vertical bulkheads,  
27 pneumatic ESV and/or backflow check valves installed where the flow is in one direction into the  
28 container. ESVs, internal valves, and API 607 ball valves shall have emergency remote controls  
29 conspicuously marked according to the requirements of Table 1 of §9.140 of this title (relating to Uniform  
30 Protection Standards) as follows:

31 (1) For all new and existing facilities, where a bulkhead, internal valves, and ESVs are  
32 installed, at least one clearly identified and easily accessible manually operated remote emergency shutoff  
33 device shall be located between 20 and 100 feet from the ESV in the path of egress from the ESV.

34 (2) Beginning September 1, 2005, for new installations, at least one clearly identified

1 and easily accessible manually operated remote emergency shutoff device shall be located between 25  
2 and 100 feet from the ESV at the bulkhead and in the path of egress from the ESV. API 607 ball valves  
3 installed after February 1, 2008, shall also meet the requirements of this section.

4 (e) [(e)] Existing installations which have horizontal bulkheads and cable-actuated ESV shall  
5 comply with the following:

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

8 (2) If a cable-actuated ESV requires replacement, it shall be replaced with a  
9 pneumatically-operated ESV;

10 (3) If the horizontal bulkhead or a backflow check valve or a cable-actuated ESV are  
11 moved from their original location to another location, no matter what the distance from the original  
12 location, then the installation shall comply with the requirements for a vertical bulkhead and  
13 pneumatically-operated ESV;

14 (4) All cable-actuated ESV shall be replaced with pneumatically-operated ESV by  
15 January 1, 2011.

16 (f) [(f)] Bulkheads, whether horizontal or vertical, shall comply with the following requirements:

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

18 (2) No more than two transfer hoses shall be attached to a pipe riser. If two hoses are  
19 simultaneously connected to one or two transports, the use of the two hoses shall not prevent the  
20 activation of the ESV in the event of a pull away;

21 (3) Both liquid and vapor transfer hoses shall be plugged or capped when not in use;

22 (4) Bulkheads shall be located at least 10 feet from any aboveground container or  
23 containers and a minimum of 10 feet horizontally from any portion of a container or valve exposed  
24 aboveground on any underground or mounded container. If the 10-foot distance cannot be obtained, the  
25 licensee or nonlicensee shall inform the Safety Division (the Division) in writing and include all  
26 necessary information. The Division may grant administrative distance variances to a minimum distance  
27 of five feet. If the licensee or nonlicensee requests that the bulkhead be closer than five feet to the  
28 container or containers, the licensee or nonlicensee shall apply for an exception to a safety rule as  
29 specified in §9.27 of this title (relating to Application for an Exception to a Safety Rule);

30 (5) Horizontal bulkheads shall not be converted to vertical bulkheads;

31 (6) Bulkheads shall be anchored in reinforced concrete to prevent displacement of the  
32 bulkhead, piping, and fittings in the event of a pullaway;

33 (7) Bulkheads shall be constructed by welding using the following materials or materials  
34 with equal or greater strength, as shown in the diagram.

1 Figure: 16 TAC §9.143 (d)(7) (No change.)

2 (A) Six-inch steel channel iron shall be used;

3 (B) Legs shall be four-inch schedule 80 piping;

4 (C) The top crossmember of a vertical bulkhead shall be six-inch standard weight  
5 steel channel iron. The channel iron shall be installed so the channel portion is pointing downward to  
6 prevent accumulation of water or other debris. The height of the top crossmember above ground shall not  
7 result in torsional stress on the vertical supports of the bulkhead in the event of a pullaway;

8 (D) The kick plate shall be at least 1/4 inch steel plate installed at least 10 inches  
9 from the top of the bulkhead crossmember. A kick plate is not required if the crossmember is constructed  
10 to prevent bending or torsional stress from being placed on the piping to the pipe risers;

11 (E) Either a schedule 40 pipe sleeve or a 3,000-pound coupling shall be welded  
12 between the top crossmember and the kick plate;

13 (i) Pipe sleeves shall have a clearance of 1/4 inch or less for the piping to  
14 the pipe riser, and the piping shall terminate through the bulkhead with a schedule 80 pipe collar, a  
15 minimum 12-inch schedule 80 threaded (not welded) pipe riser (nipple), and an elbow or other fitting  
16 between the bulkhead and hose coupling;

17 (ii) If a 3,000-pound coupling is used, no collar is required; however, the  
18 minimum 12-inch length of schedule 80 threaded pipe riser and an elbow or other fitting between the  
19 bulkhead and hose coupling are required;

20 (iii) Elbows or other fittings shall comply with NFPA 58, §5.9.4 [~~§2.4.4~~]  
21 and shall direct the transfer hose from vertical to prevent binding or kinking of the hose.

22 (8) In lieu of a minimum 12-inch nipple on [~~or~~] a vertical bulkhead, swivel-type piping  
23 (breakaway loading arm) may be installed. The swivel-type piping shall meet all applicable provisions of  
24 the LP-Gas Safety Rules. The swivel-type piping may also be used for loading, unloading, or product  
25 transfer, but shall not be used in lieu of ESVs. The swivel-type piping shall be installed and maintained  
26 according to the manufacturer's instructions.

27 (9) AFS [~~LP-Gas Operations~~] may require additional bulkhead protection if the  
28 installation is subject to exceptional circumstances or located in an unusual area where additional  
29 protection is necessary to protect the health, safety, and welfare of the general public.

30 [~~(e) In addition to NFPA 58, §5.7.4.2 as amended in the table in §9.403 of this title (relating to~~  
31 ~~Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional~~  
32 ~~Requirements), ESVs, internal valves, and API 607 ball valves shall have emergency remote controls~~  
33 ~~conspicuously marked according to the requirements of Table 1 of §9.140 of this title (relating to Uniform~~  
34 ~~Protection Standards) as follows:]~~

1           ~~[(1) Effective February 1, 2001, for all new facilities, where a bulkhead, internal valves,~~  
2 ~~and ESVs are installed, at least one clearly identified and easily accessible manually operated remote~~  
3 ~~emergency shutoff device shall be located between 20 and 100 feet from the ESV in the path of egress~~  
4 ~~from the ESV. Existing installations shall have complied by August 1, 2001.]~~

5           ~~[(2) Beginning September 1, 2005, for new installations, at least one clearly identified~~  
6 ~~and easily accessible manually operated remote emergency shutoff device shall be located between 25~~  
7 ~~and 100 feet from the ESV at the bulkhead and in the path of egress from the ESV. API 607 ball valves~~  
8 ~~installed after February 1, 2008, shall also meet the requirements of this section.]~~

9           ~~[(3) The use of swivel-type piping as specified in subsection (d)(8) of this section shall~~  
10 ~~not eliminate the requirement for an ESV. Swivel-type piping may be installed between the bulkhead and~~  
11 ~~the minimum 12-inch nipple, but shall not eliminate the requirement for an ESV. The swivel-type piping~~  
12 ~~shall be installed and maintained according to the manufacturer's instructions.]~~

13           (g) [(f)] The bulkheads, internal valves, backflow check valves, and ESVs shall be kept in  
14 working order at all times in accordance with the manufacturer's instructions and the *LP-Gas Safety*  
15 *Rules*. If the bulkheads, internal valves, backflow check valves and ESVs are not in working order in  
16 accordance with the manufacturer's instructions and the *LP-Gas Safety Rules*, the licensee or operator of  
17 the installation shall immediately remove them from LP-gas service and shall not operate the installation  
18 until all necessary repairs have been made.

19           (h) [(g)] In addition to NFPA 58 §§5.9.6 and 6.9.6.1, by February 1, 2003, rubber flexible  
20 connectors which are 3/4-inch or larger in size installed in liquid or vapor piping at an existing liquid  
21 transfer operation shall have been replaced with a stainless steel flexible connector. Stainless steel flexible  
22 connectors shall be 60 inches in length or less, and shall comply with all applicable *LP-Gas Safety Rules*.  
23 Flexible connectors installed at a new installation after February 1, 2001, shall be stainless steel.

24           (i) [(h)] If necessary to increase LP-gas safety, AFS [~~LP-Gas Operations~~] may require a  
25 pneumatically-operated internal valve equipped for remote closure and automatic shutoff through thermal  
26 (fire) actuation to be installed for certain liquid and/or vapor connections with an opening of 3/4 inch or  
27 one inch in size.

28           (j) [(i)] Stationary LP-gas installations with individual or aggregate water capacities of 4,001  
29 gallons or more are exempt from subsections (a) through [~~and~~] (c) [(b)] of this section provided:

30                 (1) each container is filled solely through a 1 3/4 inch double back check filler valve  
31 installed directly into the container; and

32                 (2) at least one clearly identified and easily accessible manually operated remote  
33 emergency shutoff device shall be located between 25 and 100 feet from the point of transfer in the path  
34 of egress to close the primary discharge valves in the containers; and

1 (3) the LP-gas installation is not used to fill an LP-gas transport.

2  
3 SUBCHAPTER C. VEHICLES [~~AND VEHICLE DISPENSERS~~].

4  
5 §9.201. Applicability.

6 (a) This subchapter applies to transport containers and moveable fuel storage tenders such as farm  
7 carts constructed to MC-330 or MC-331 Department of Transportation (DOT) specifications,  
8 nonspecification units, container delivery units, school buses, mass transit vehicles, special transit  
9 vehicles, and public transportation vehicles.

10 (1) Transfer of LP-gas from one transport to another shall be permitted only through a  
11 hose with a nominal inside diameter of 1 1/4 inch or less and protected by an off-truck remote control  
12 shutdown as required in 49 CFR.

13 (2) An LP-gas transport shall not be joined to manifold piping or to a stationary container  
14 for use as an auxiliary storage container at any stationary installation except with prior approval from  
15 AFS [~~LP-Gas Operations~~].

16 (b) All transports and moveable fuel storage tenders shall comply with MC-330 or MC-331, or  
17 the exemption in Title 49, Code of Federal Regulations (CFR), §173.315(k).

18 (c) Licensees and ultimate consumers shall comply with other DOT or motor vehicle  
19 requirements, if applicable. In addition, transports and container delivery units shall also comply with the  
20 applicable sections of Title 49 CFR, the Federal Motor Vehicle Safety Standards, and any other  
21 applicable regulations. Examples of such additional requirements are as follows:

22 (1) 49 CFR §177.834(j) states: "Except for a cargo tank conforming to §173.29(b)(2) of  
23 this subchapter, a person may not drive a cargo tank motor vehicle containing a hazardous material  
24 regardless of quantity unless: (1) All manhole closures are closed and secured; and (2) All valves and  
25 other closures in liquid discharge systems are closed and free of leaks, except external emergency self-  
26 closing valves on MC 338 cargo tanks containing the residue of cryogenic liquids may remain either open  
27 or closed during transit."

28 (2) 49 CFR §177.840(g) states: "Each liquid discharge valve on a cargo tank motor  
29 vehicle, other than an engine fuel line valve, must be closed during transportation except during loading  
30 and unloading."

31 (3) 49 CFR §180.405(n) states: "Thermal activation. No later than the date of its first  
32 scheduled leakage test after July 1, 1999, each specification MC 330 or MC 331 cargo tank motor vehicle  
33 and each nonspecification cargo tank motor vehicle conforming to §173.315(k) of this subchapter,  
34 marked and certified before July 1, 1999, that is used to transport a liquefied compressed gas, other than

1 carbon dioxide and chlorine, that has a water capacity of 13,247.5 liters (3,500 gallons) or less must be  
2 equipped with a means of thermal activation for the internal self-closing stop valve as specified in  
3 §178.337-8(a)(4) of this subchapter."  
4

5 §9.202. Registration and Transfer of LP-Gas Transports or Container Delivery Units.

6 (a) A person who operates a transport equipped with LP-gas cargo tanks or any container delivery  
7 unit, regardless of who owns the transport or unit, shall register such transport or unit with AFS [~~LP-Gas~~  
8 ~~Operations~~] in the name or names under which the operator conducts business in Texas prior to the unit  
9 being used in LP-gas service.

10 (1) To register a unit previously unregistered in Texas, the operator of the unit shall:

11 (A) pay to AFS [~~LP-Gas Operations~~] the \$300 [~~\$270~~] registration fee for each  
12 bobtail truck, semitrailer, container delivery unit, or other motor vehicle equipped with LP-gas cargo  
13 tanks; [~~and~~]

14 (B) file a properly completed LPG Form 7;

15 (C) file a copy of the Manufacturer's Data Report;

16 (D) file a copy of the DOT Certificate of Compliance; and

17 (E) file a copy of the hydrostatic test required by §9.208 of this title (relating to  
18 Testing Requirements), unless the unit was manufactured within the previous five years or 10 years for  
19 units which meet the exemption in 49 CFR 180.407(c).

20 (2) To register an MC-330/MC-331 specification unit which was previously registered in  
21 Texas but for which the registration has expired, the operator of the unit shall:

22 (A) pay to AFS \$25 for each month remaining on the operator's license [~~LP-Gas~~  
23 ~~Operations~~ the \$270 registration fee];

24 (B) file a properly completed LPG Form 7; and

25 (C) file a copy of the latest test results if an expired unit has not been used in the  
26 transportation of LP-gas for over one year or if a current hydrostatic test has not been filed with AFS.

27 (3) To re-register a currently registered unit, the licensee operating the unit shall pay a  
28 \$300 annual registration fee.

29 (4) [~~3~~] To transfer a currently registered unit, the new operator of the unit shall:

30 (A) pay \$25 for each month remaining on the operator's license up to \$100 [~~the~~  
31 ~~\$100 transfer fee for each unit~~]; and

32 (B) file a properly completed LPG Form 7.

33 (b) AFS [~~LP-Gas Operations~~] may also request that an operator registering or transferring any  
34 unit[.];

1                   ~~[(1) file a copy of the Manufacturer's Data Report; or]~~  
2                   ~~[(2)]~~ have the unit tested by a test other than those required by §9.208 of this title  
3                   ~~[(relating to Testing Requirements)].~~

4                   (c) When all registration or transfer requirements have been met, AFS ~~[LP-Gas Operations]~~ shall  
5 issue LPG Form 4 which shall be properly affixed in accordance with the placement instructions on the  
6 form. LPG Form 4 shall authorize the licensee or ultimate consumer to whom it has been issued and no  
7 other person to operate such unit in the transportation of LP-gas and to fill the transport containers.

8                   (1) A person shall not operate an LP-gas transport unit or container delivery unit in Texas  
9 unless the LPG Form 4 has been properly affixed or unless its operation has been specifically approved  
10 by AFS ~~[LP-Gas Operations]~~.

11                   (2) A person shall not introduce LP-gas into a transport container unless that unit bears an  
12 LPG Form 4 or unless specifically approved by AFS ~~[LP-Gas Operations]~~.

13                   (3) LPG Form 4 shall not be transferable by the person to whom it has been issued, but  
14 shall be registered by any subsequent licensee or ultimate consumer prior to the unit being placed into LP-  
15 gas service.

16                   (4) This subsection shall not apply to:

17                   (A) a container manufacturer/fabricator who introduces a reasonable amount of  
18 LP-gas into a newly constructed container in order to properly test the vessel, piping system, and  
19 appurtenances prior to the initial sale of the container. The liquid LP-gas shall be removed from ~~[form]~~  
20 the transport container prior to the unit leaving the container manufacturer/fabricator's premises; or

21                   (B) a person who introduces a maximum of 150 gallons of LP-gas into a newly  
22 constructed transport container when such container will provide the motor fuel to the chassis engine for  
23 the purpose of allowing the unit to reach its destination

24                   (5) AFS ~~[LP-Gas Operations]~~ shall not issue an LPG Form 4 if:

25                   (A) AFS ~~[LP-Gas Operations]~~ or a Category A, B, or O licensee determines that  
26 the transport is unsafe for LP-gas service;

27                   (B) AFS ~~[LP-Gas Operations]~~ does not have an inspection record of the transport  
28 or cylinder delivery unit by a Commission representative within four years of its initial registration ~~[on or~~  
29 ~~after January 1, 2006]~~; or

30                   (C) AFS ~~[LP-Gas Operations]~~ has not inspected the transport or cylinder delivery  
31 unit at least once every four years after the initial registration ~~[within a four-year cycle thereafter]~~.

32                   (6) If an LPG Form 4 decal on a unit currently registered with AFS ~~[LP-Gas Operations]~~  
33 is destroyed, lost, or damaged, the operator of that vehicle shall obtain a replacement decal by filing LPG  
34 Form 18B and a \$75 ~~[\$50]~~ replacement fee with AFS ~~[LP-Gas Operations]~~.

1 §9.203. School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle Installations and  
2 Inspections.

3 (a) After the manufacture of or the conversion to an LP-gas system on any vehicle to be used in  
4 Texas as a school bus, mass transit, public transportation, or special transit vehicle, the manufacturer,  
5 licensee, or ultimate consumer making the installation or conversion shall notify AFS [~~LP-Gas~~  
6 ~~Operations~~], in writing on LPG Form 503 that the applicable LP-gas powered vehicles are ready for a  
7 complete inspection to determine compliance with the LP-Gas Safety Rules.

8 (b) AFS shall conduct the inspection within a reasonable time to ensure the vehicles are operating  
9 in compliance with the LP-Gas Safety Rules.

10 (1) If AFS' [~~LP-Gas Operations~~] initial complete inspection finds the vehicle in  
11 compliance with the LP-Gas Safety Rules and the statutes, the vehicle may be placed into LP-gas service.  
12 For fleet installations of identical design, an initial inspection shall be conducted prior to the operation of  
13 the first vehicle, and subsequent vehicles of the same design may be placed into service without prior  
14 inspections. [~~Inspections shall be conducted within a reasonable time frame to ensure the vehicles are~~  
15 ~~operating in compliance with the LP-Gas Safety Rules.~~]

16 (2) If violations exist at the time of the initial complete inspection, the vehicle shall not  
17 be placed into LP-gas service and the manufacturer, licensee, or ultimate consumer making the  
18 installation or conversion shall correct the violations. The manufacturer, licensee, or ultimate consumer  
19 shall file with AFS documentation demonstrating compliance with the LP-Gas Safety Rules, or AFS shall  
20 conduct another complete inspection before the vehicle may be placed into LP-gas service.

21 (3) For public transportation vehicles only, [~~either manufactured to use or converted to~~  
22 ~~LP-gas,~~] if AFS [~~LP-Gas Operations~~] does not conduct the initial inspection of such vehicle within 30  
23 business days of receipt of LPG Form 503, the vehicle may be operated in LP-gas service if it complies  
24 with the LP-Gas Safety Rules. [~~The manufacturer, licensee, or ultimate consumer shall file with LP-Gas~~  
25 ~~Operations documentation demonstrating compliance with the LP-Gas Safety Rules, or LP-Gas~~  
26 ~~Operations shall conduct another complete inspection before the vehicle may be placed into LP-gas~~  
27 ~~service.~~]

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

31 (d) If the requested AFS [~~LP-Gas Operations~~] inspection identifies violations requiring  
32 modifications by the manufacturer, licensee, or ultimate consumer, AFS [~~LP-Gas Operations~~] shall  
33 consider the assessment of an inspection fee to cover the costs associated with any additional inspection,  
34 including mileage and per diem rates set by the legislature.

1 §9.204. Maintenance of Vehicles.

2 (a) All LP-gas vehicles and vehicle containers, valves, dispensers, accessories, piping, transfer  
3 equipment, gas container, gas utilization equipment, and appliances shall be maintained in safe working  
4 order and in accordance with the manufacturer's instructions and the LP-Gas Safety Rules.

5 (b) If any of the LP-gas vehicles and vehicle containers, valves, dispensers, accessories, piping,  
6 transfer equipment, gas containers, gas utilization equipment, or appliances is not in safe working order,  
7 AFS [LP-Gas Operations] may require that the vehicle be immediately removed from LP-gas service and  
8 not be operated until the necessary repairs have been made.

9  
10 §9.206. Vehicle Identification Labels.

11 LP-gas shall not be introduced into any vehicle powered by LP-gas and designed for regular use  
12 on public roadways unless the vehicle is properly identified by a weather-resistant diamond-shaped label  
13 described in NFPA 58, §11.12.1 [~~§11.11.1~~], as that section is amended in Table 1 of §9.403 of this title  
14 (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted With Changes or Additional  
15 Requirements).

16  
17 §9.208. Testing Requirements.

18 Each transport container unit required to be registered with AFS [LP-Gas Operations] shall be  
19 tested in accordance with 49 CFR 180.407, relating to requirements for test and inspection of  
20 specification cargo tanks. The tests shall be conducted by any individual authorized by the United States  
21 Department of Transportation through a DOT "CT" number to conduct such tests. This section shall not  
22 apply to the initial transfer of unregistered units that are tested and transferred from another state. If the  
23 test results show any unsafe condition, or if the transport unit does not comply with 49 CFR Parts 100 -  
24 185, the transport container unit shall be immediately removed from LP-gas service and shall not be  
25 returned to LP-gas service until all necessary repairs have been made and AFS [LP-Gas Operations]  
26 authorizes in writing its return to service.

27  
28 §9.211. Markings.

29 (a) In addition to NFPA 58 §9.4.6.2, each LP-gas transport and container delivery unit in LP-gas  
30 service shall be marked on each side and the rear with the name of the licensee or the ultimate consumer  
31 operating the unit. Such lettering shall be legible and at least two inches in height and in sharp color  
32 contrast to the background. AFS [LP-Gas Operations] shall determine whether the name marked on the  
33 unit is sufficient to properly identify the licensee or ultimate consumer operating the unit.

34 (b) In addition to NFPA 58, §11.4.1.8, the location of the manual shutoff valve on each school

1 bus, special transit vehicle, mass transit vehicle, and public transportation unit shall be marked "Manual  
2 Shutoff Valve." Decals or stencils are acceptable.

3  
4 §9.212. Manifests.

5 (a) All manifests or bills of lading shall indicate the amount and type of odorant per gross gallons,  
6 the vapor pressure of the product at 100 degrees Fahrenheit, the net gallons, the loading temperature, the  
7 specific gravity at 60 degrees Fahrenheit, the type of product, and the United Nations number with  
8 verification by the loading entity and loader. A copy of the manifest or bill of lading shall be given to the  
9 entity receiving the shipment.

10 (b) This requirement shall not apply to loads covered by permanent shipping papers authorized by  
11 DOT.

12 (c) Manifests shall be made available to the Commission upon request.

13  
14 §9.213. Hydrostatic Relief Protection.

15 Hydrostatic relief valves on transport containers and moveable fuel storage tenders constructed to  
16 MC-330 or MC-331 Department of Transportation (DOT) specifications and nonspecification units shall  
17 be installed in a manner that prevents impingement on the cargo tank.

18  
19 SUBCHAPTER D. ADOPTION BY REFERENCE OF NFPA 54 (NATIONAL FUEL GAS CODE).

20  
21 §9.301. Adoption by Reference of NFPA 54.

22 (a) Except as modified in the remaining sections of this subchapter, the Commission adopts by  
23 specific reference the provisions established by the National Fire Protection Association in its 2015  
24 [2006] edition of the *National Fuel Gas Code*, commonly referred to as NFPA 54 or Pamphlet 54.  
25 Nothing in this section or subchapter shall prevent the Commission, after notice, from adopting additional  
26 requirements, whether more or less stringent, for individual situations to protect the health, safety, and  
27 welfare of the general public. Any documents or parts of documents incorporated by reference into these  
28 rules shall be a part of these rules as if set out in full.

29 (b) The Commission also adopts by reference all other NFPA publications or portions of those  
30 publications referenced in NFPA 54 which apply to LP-gas activities only. The adopted pamphlets  
31 referenced in NFPA 54 are:

32 (1) NFPA 30A, *Code for Motor Fuel Dispenser Facilities and Repair Garages*, 2015  
33 [2003] edition;

34 (2) NFPA 37, *Standard for the Installation and Use of Stationary Combustion Engines*

1 *and Gas Turbines, 2015* [2002] edition;

2 (3) NFPA 51, *Standard for the Design and Installation of Oxygen-Fuel Gas Systems for*  
3 *Welding, Cutting, and Allied Processes, 2013* [2002] edition;

4 (4) NFPA 52, *Vehicular Fuel Systems Code, 2013* [2006] edition;

5 (5) NFPA 58, *Liquefied Petroleum Gas Code, 2014* [2004] edition, as amended in  
6 Subchapter E of this chapter (relating to Adoption by Reference of NFPA 58 (LP-Gas Code));

7 (6) NFPA 70, *National Electrical Code, 2014* [2005] edition;

8 (7) NFPA 82, *Standard on Incinerators and Waste, and Linen Handling Systems and*  
9 *Equipment, 2014* [2004] edition;

10 (8) NFPA 88A, *Standard for Parking Structures, 2015* [2002] edition;

11 (9) NFPA 90A, *Standard for the Installation of Air Conditioning and Ventilating*  
12 *Systems, 2015* [2002] edition;

13 (10) NFPA 90B, *Standard for the Installation of Warm Air Heating and Air Conditioning*  
14 *Systems, 2015* [2006] edition;

15 (11) NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial*  
16 *Cooking Operations, 2014* [2004] edition;

17 (12) NFPA 211, *Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning*  
18 *Appliances, 2013* [2003] edition;

19 (13) NFPA 409, *Standard on Aircraft Hangars, 2011* [2004] edition;

20 (14) NFPA 780, *Standard for the Installation of Lightning Protection Systems, 2014*  
21 edition;

22 (15) [(14)] NFPA 853, *Standard for the Installation of Station Fuel Cell Power Systems,*  
23 2015 [2003] edition; and

24 (16) [(15)] NFPA 1192, *Standard on Recreational Vehicles, 2015* [2005] edition.

25  
26 §9.302. Clarification of Certain Terms Used in NFPA 54.

27 (a) Authority having jurisdiction. As pertains to LP-gas activities in Texas, the phrase "authority  
28 having jurisdiction" defined in NFPA 54, §3.2, and referenced in other NFPA publications shall be the  
29 Railroad Commission of Texas or any of its divisions or employees, except with respect to the definitions  
30 of "approved," "engineering," "labeled," and "listed" in NFPA 54, §3.2.

31 (b) Qualified agency. The term "qualified agency" as defined in NFPA 54, §3.3.81 [§3.3.83],  
32 shall include a person (as "person" is defined in §9.2 of this title (relating to Definitions)) who holds a  
33 current license issued by the Commission, or a person performing certain LP-gas activities on his own  
34 premises, as allowed in §9.134 of this title (relating to Connecting Container to Piping).

1 (c) Engineering. The Commission does not adopt language in any NFPA 54 rule such as "sound  
2 engineering practice," "accepted engineering practice," "good engineering practice," "sound engineering  
3 design," or similar language that might be understood to mean or refer to the practice of engineering. The  
4 omission of a specific NFPA 54 rule or other NFPA pamphlets containing such language from the  
5 exceptions listed in this subchapter is inadvertent and shall not be read or understood as requiring,  
6 allowing, or approving the unlicensed practice of engineering or any other professional occupation  
7 requiring a license.

8  
9 §9.303. Exclusion of NFPA 54, §10.28 [~~§10.29~~].

10 The Commission does not adopt NFPA 54, §10.28 [~~§10.29~~], which refers to NFPA 52, Vehicular  
11 Fuel Systems Code. Persons engaging in CNG activities shall comply with the Commission's adopted  
12 rules in [at] Chapter 13 of this title (relating to Regulations for Compressed Natural Gas (CNG)).  
13

14 §9.304. Unvented Appliances.

15 The service and repair of an LP-gas appliance not required by the manufacturer to be vented to  
16 the atmosphere is exempt from Category D licensing. The installation of these unvented appliances to LP-  
17 gas systems by means of LP-gas appliance connectors is also exempt from Category D licensing.  
18

19 §9.306. Room Heaters in Public Buildings.

20 In addition to applicable requirements in NFPA 54, Chapter 10, Installation of Specific  
21 Appliances [~~Equipment~~], room heaters in schools, day care centers, foster homes, hotels or other similar  
22 buildings or rooms used for temporary lodging shall be vented and equipped with a safety shut-off device,  
23 except that room heaters with 40,000 Btu or less input and infrared heaters are not required to be vented,  
24 but shall have a safety shutoff device and an oxygen depletion system (ODS).  
25

26 §9.307. Identification of Converted Appliances.

27 (a) In addition to the requirements of NFPA 54, §9.1.3, and NFPA 58, §5.20, upon completion of  
28 the conversion and testing of LP-gas appliances, the licensee, registrant, or appliance manufacturer  
29 making the conversion shall attach to each such appliance a decal or tag of metal or other permanent  
30 material indicating that the appliance is converted for use with LP-gas.

31 (b) Conversion of an appliance for use with LP-gas by an authorized representative of the  
32 appliance manufacturer, using parts provided by the manufacturer, is not an activity requiring licensing  
33 pursuant to Texas Natural Resources Code, §113.081.  
34

1 §9.308. Installation [~~Identification~~] of Piping [~~Installation~~].

2 (a) In addition to the requirements of NFPA 54, Chapter 7, Gas Piping Installation, LP-gas piping  
3 shall be installed, altered, repaired, pressure tested, and leakage tested only by persons properly licensed  
4 or certified by the Commission.

5 (b) Licensees and registrants shall document and retain such documentation of all pressure and  
6 leakage tests pursuant to §9.4 of this title (relating to Records and Enforcement).

7 (c) When connecting to or supplying a new piping system with corrugated stainless steel tubing  
8 (CSST), the licensee or registrant shall ensure the bonding requirements of NFPA 54, §7.13.2, have been  
9 met. Bonding requirements may be completed by a licensed electrician.

10 (d) Licensees and registrants shall retain written proof regarding any current certifications for  
11 installation and repair methods for CSST, polyethylene, and polyamide pipe and tubing, including heat-  
12 fusion.

13  
14 §9.311. Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors  
15 and Piping Support.

16 (a) In addition to the requirements of NFPA 54, §9.6.2 [~~and NFPA 58 §5.9.6.5 regarding gas hose~~  
17 ~~connectors, agricultural structures, such as greenhouses or broiler houses, or~~], industrial structures not  
18 inhabited by humans may use a gas hose connector [~~have appliance connectors~~] more than six feet in  
19 length as an appliance connector provided that:

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

21 (2) the hose shall comply with NFPA 58, §§5.9.6.1 through 5.9.6.4;

22 (3) the length of the hose used shall be only that which is sufficient to serve the purpose  
23 for which it is intended; and

24 (4) manufactured hose connections, such as quick-connect or threaded fittings, shall be  
25 used.

26 (b) Only broiler houses and other types of poultry houses may connect LP-gas piping with  
27 stainless steel screw-type banded clamps in lieu of the required manufactured hose connections specified  
28 in subsection (a)(4) of this section, provided that the clamps are properly installed and the connections are  
29 gas-tight, that the clamps are used in conjunction with hose barb adaptors, and that the system's operating  
30 pressure is 6 1/2 ounces or less. Other agricultural structures shall comply with the requirements of  
31 subsection (a)(4) of this section.

32 (c) Items listed in NFPA 54, §1.1.1.2(2) must comply with the requirements of NFPA 58 as  
33 adopted in Subchapter E of this chapter (relating to Adoption by Reference of NFPA 58 (LP-Gas Code)).

34 [~~(c) In addition to the requirements in NFPA 54, §7.2.6, the support spacing requirement for 3/4~~

1 to one inch pipe shall not apply to agricultural structures not inhabited by humans, such as greenhouses  
2 and broiler houses, provided that:]

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

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

5  
6 §9.312. Certification Requirements for Joining Methods. **REPEAL**

7  
8 §9.313. Sections in NFPA 54 Adopted with Additional Requirements or Not Adopted.

9 Table 1 of this section lists certain NFPA 54 sections which the Commission adopts with  
10 additional requirements, changes, or does not adopt in order to address the Commission's rules in this  
11 chapter.

12 Figure: 16 TAC §9.313

13  
14 SUBCHAPTER E. ADOPTION BY REFERENCE OF NFPA 58 (LP-GAS CODE).

15  
16 §9.401. Adoption by Reference of NFPA 58.

17 (a) Except as modified in this subchapter, the Commission adopts by specific reference the  
18 provisions established by the National Fire Protection Association (NFPA) in its 2014 [~~2008~~] edition of  
19 the Liquefied Petroleum Gas Code [~~(formerly titled Standard for the Storage and Handling of Liquefied~~  
20 ~~Petroleum Gases)~~], commonly referred to as NFPA 58 or Pamphlet 58[~~, effective February 1, 2008~~].  
21 Nothing in this section or subchapter shall prevent the Commission, after notice, from adopting additional  
22 requirements, whether more or less stringent, for individual situations to protect the health, safety and  
23 welfare of the general public. Any documents or parts of documents incorporated by reference into these  
24 rules shall be a part of these rules as if set out in full.

25 (b) The Commission also adopts by reference all other NFPA publications or portions of those  
26 publications referenced in NFPA 58, §2.1, which apply to LP-gas activities only. The adopted pamphlets  
27 referenced in NFPA 58 are:

28 (1) NFPA 10, *Standard for Portable Fire Extinguishers*, 2013 [~~2007~~] edition;

29 (2) NFPA 13, *Standard for the Installation of Sprinkler Systems*, 2013 [~~2007~~] edition;

30 (3) NFPA 15, *Standard for Water Spray Fixed Systems for Fire Protection*, 2012 [~~2007~~]

31 edition;

32 (4) NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based*  
33 *Fire Protection Systems*, 2014 [~~2005~~] edition;

34 (5) NFPA 30, *Flammable and Combustible Liquids Code*, 2012 [~~2008~~] edition;

1 (6) NFPA 30A, *Code for Motor Fuel Dispensing Facilities and Repair Garages*, 2012  
2 ~~[2008]~~ edition;

3 (7) NFPA 51B, *Standard for Fire Prevention in Use of Cutting and Welding Processes*,  
4 2014 ~~[2003]~~ edition;

5 (8) NFPA 54, *National Fuel Gas Code*, 2015 edition, as amended in Subchapter D of  
6 this chapter (relating to Adoption by Reference of NFPA 54 (National Fuel Gas Code)).

7 (9) ~~[(8)]~~ NFPA 55, *Standard for the Storage, Use, and Handling of Compressed Gases*  
8 *and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks*, 2013 ~~[2005]~~ edition;

9 (10) ~~[(9)]~~ NFPA 59, *Utility LP-Gas Plant Code*, 2012 ~~[2004]~~ edition;

10 (11) ~~[(10)]~~ NFPA 70, *National Electrical Code*, 2014 ~~[2008]~~ edition;

11 (12) ~~[(11)]~~ NFPA 99, *Standard for Health Care Facilities*, 2012 ~~[2005]~~ edition;

12 (13) ~~[(12)]~~ NFPA 101, *Life Safety Code*, 2012 ~~[2006]~~ edition;

13 (14) ~~[(13)]~~ NFPA 160, *Standard for the Use of Flame Effects Before an Audience*, 2011  
14 ~~[2006]~~ edition;

15 (15) ~~[(14)]~~ NFPA 220, *Standard on Types of Building Construction*, 2012 ~~[2006]~~  
16 edition;

17 ~~[(15) NFPA 251, *Standard Methods of Tests of Fire Resistance of Building Construction*~~  
18 ~~*and Materials*, 2006 edition;]~~

19 (16) NFPA 1192, *Standard on Recreational Vehicles*, 2011 ~~[2005]~~ edition.

20  
21 §9.402. Clarification of Certain Terms Used in NFPA 58.

22 (a) Authority having jurisdiction. As pertains to LP-gas activities in Texas, the phrase "authority  
23 having jurisdiction" defined in NFPA 58, §3.2, and referenced in other NFPA publications shall be the  
24 Railroad Commission of Texas or any of its divisions or employees, except with respect to the definitions  
25 of "approved," "labeled," and "listed" in NFPA 58, §3.2.

26 (b) Engineering. The Commission does not adopt language in any NFPA 58 rule such as "sound  
27 engineering practice," "accepted engineering practice," "good engineering practice," "sound engineering  
28 design," or similar language that might be understood to mean or refer to the practice of engineering. The  
29 omission of a specific NFPA 58 rule or other NFPA pamphlets containing such language from Table 1 of  
30 §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted with  
31 Changes or Additional Requirements) is inadvertent and shall not be read or understood as requiring,  
32 allowing, or approving the unlicensed practice of engineering or any other professional occupation  
33 requiring a license.

34 (c) Container capacity, piping system, and appliance exceptions. The Commission does not adopt

1 language in any NFPA rule, chart, figure, or table pertaining to any LP-gas container having a water  
2 capacity of one gallon (4.2 pounds LP-gas capacity) or less, or to any LP-gas piping system or appliance  
3 attached or connected to such a container.  
4

5 §9.403. Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional  
6 Requirements.

7 (a) Table 1 of this section lists certain NFPA 58 sections which the Commission does not adopt  
8 because the Commission's corresponding rules are more pertinent to LP-gas activities in Texas, or which  
9 the Commission adopts with changed language or additional requirements in order to address the  
10 Commission's existing rules.

11 Figure: 16 TAC §9.403

12 (b) If a section in NFPA 58 refers to another section in NFPA 58 which the Commission has not  
13 adopted, or which the Commission has adopted with additional or alternative language, then persons shall  
14 comply with the applicable Commission rule.  
15

**TABLE 1. LP-Gas Penalty Schedule Guideline**

<b>LP-Gas Rule/Statute</b>	<b>General Description</b>	<b>Typical Minimum Penalty Amount/Range</b>
Tex. Nat. Res. Code, Chapter 113	Any violation of Chapter 113, Texas Natural Resources Code	\$1,000-2,500
16 TAC §9.4(a)	Retention of records	\$500
16 TAC §9.4(d)	Licensee and registrant obligations	\$2,500
16 TAC §9.7(a)	Performing LP-gas activities without proper certification and/or license	\$500
16 TAC §9.7(d)	Copies of licenses and/or certifications	\$100
16 TAC §9.7(g)	Company representative and/or branch manager	\$500
16 TAC §9.7(h)	License renewals lapse, 1-2 months	\$500
16 TAC §9.7(h)	License renewals lapse, 3-4 months	\$750
16 TAC §9.7(h)	License renewals lapse, 5-6 months	\$1,000
16 TAC §9.7(h)	License renewals lapse, more than 6 months	\$1,000-2,500
16 TAC §9.7(i)	Failure to register or renew and outlet	\$100 plus \$10 for each outlet
16 TAC §9.9	Requirements for certificate holder renewal	\$250
16 TAC §9.11	Employee transfers	\$100
16 TAC §9.12	Trainees	\$500-1,000
16 TAC §9.13	General installers and repairman exception	\$500-1,000
16 TAC §9.17	Designation and responsibilities of company reps	\$500
16 TAC §9.21	Franchise tax certification and assumed name certificates	\$500
16 TAC §9.22	Changes in ownership, form or name of dealership	\$500
16 TAC §9.23	Limitation/avoidance of licensee liability	\$2,500
16 TAC §9.26	Insurance and self-insurance requirements	\$1,000
16 TAC §9.28	Reasonable safety provisions	\$2,500
16 TAC §9.32	Consumer safety notification	\$500
16 TAC §9.35	Written procedure for leak check	\$100-500
16 TAC §9.36(a)	Report of an LP-gas incident/accident	\$1,000
16 TAC §9.36(c)	Completed Form 20	\$100
16 TAC §9.36(e)	Category P must notify supplier of incident	\$250
16 TAC §9.41	Testing LP-gas systems in school facilities	\$1,000
16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), 1-5 occurrences	\$100
16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), 6-10 occurrences	\$200
16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), >10 occurrences	\$500
16 TAC §9.101(c)	Filings for stationary installations Form 500 (>= 10,000 gal AWC)	\$1,000
16 TAC §9.109	Physical inspection of stationary installation	\$250-1,000
16 TAC §9.113	Maintenance	\$250-1,000
16 TAC §9.114(a)	Odorization in accordance with NFPA 58	\$500-2,500
16 TAC §9.126(a)-(b)	All appurtenances and equipment shall be listed	\$1,000
16 TAC §9.126(c)	Licensee or operator of equipment not listed but approved for use by manufacturer shall maintain documentation	\$250
16 TAC §9.129	Manufacturer's nameplate and markings	\$1,000
16 TAC §9.131	200 PSIG working pressure stationary vessels	\$500-1,000

LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/Range
16 TAC §9.132	Sales to unlicensed individuals	\$1,000
16 TAC §9.134	Connecting container to piping	\$250-1,000
16 TAC §9.135	Unsafe or unapproved containers, cylinders or piping	\$500-2,500
16 TAC §9.136	Filling DOT containers	\$500-2,500
16 TAC §9.137	Inspection of containers at each filling	\$500
16 TAC §9.140	Uniform protection standards	\$100-750
16 TAC §9.141	Uniform safety requirements	\$100-750
16 TAC §9.142	LP-gas storage and installation requirements	\$100-500
16 TAC §9.143	Bulkhead, internal valve, ball valve and ESV protection	\$500-2,500
16 TAC §9.201	Applicability (includes 49 CFR 100-185)	\$500-2,500
16 TAC §9.202	Registration and transfer of LP-gas transports	\$500-1,500, <u>plus \$300 for each transport per year operated</u>
16 TAC §9.203	School bus, public transportation, mass and special transit	\$100-500
16 TAC §9.204	Maintenance of vehicles	\$250-1,000
16 TAC §9.206	Vehicle identification labels	\$50-100
16 TAC §9.208	Testing requirements	\$250-1,000
16 TAC §9.211	Markings	\$250
16 TAC §9.212	Manifests	\$250
16 TAC §9.301	NFPA 54 adopted by reference unless otherwise listed	\$250-2,500
16 TAC §9.301	NFPA 54 Section 7.1.2.1 underground piping cover requirements	\$250-750
16 TAC §9.301	NFPA 54 Section 7.1.7.1 connection of plastic piping	\$500-1,000
16 TAC §9.301	NFPA 54 Section 7.1.7.3 tracer wire	\$100-500
16 TAC §9.301	NFPA 54 Section 7.7.2.1 cap all outlets	\$100-500
16 TAC §9.301	NFPA 54 Section 8.2.3 test for leakage	\$1,500
16 TAC §9.301	NFPA 54 Section 9.1.1.2 appliance installation	\$500-1,000
16 TAC §9.301	NFPA 54 Section 9.6.7 sediment trap	\$100-500
16 TAC §9.301	NFPA 54 Section 12.2 venting of appliances	\$500-1,000
16 TAC §9.306	Room heaters in public buildings	\$250-1,000
16 TAC §9.307	Identification of converted appliances	\$100-250
16 TAC §9.308	Identification of piping installation	\$100-250
16 TAC §9.311	Special exceptions for appliance connectors and piping support on agricultural and industrial structures	\$100-500
16 TAC §9.312	Certification requirements for joining methods	\$500
16 TAC §9.401	NFPA 58 adopted by reference unless otherwise listed	\$250-2,500
16 TAC §9.401	NFPA 58 Section 6.3.1 (distance from container), first occurrence	\$500
16 TAC §9.401	NFPA 58 Section 6.3.1 (distance from container), 2nd occurrence	\$750
16 TAC §9.401	NFPA 58 Section 6.3.1 (distance from container), 3 or more occurrences	\$1,000
16 TAC §9.401	NFPA 58 Section 5.2.2.2 and 11.3.1.5 (requalification of cylinders), 1-10 cylinders	\$500
16 TAC §9.401	NFPA 58 Section 5.2.2.2 and 11.3.1.5 (requalification of cylinders), 11-20 cylinders	\$750
16 TAC §9.401	NFPA 58 Section 5.2.2.2 and 11.3.1.5 (requalification of cylinders), >20 cylinders	\$1,000

<b>LP-Gas Rule/Statute</b>	<b>General Description</b>	<b>Typical Minimum Penalty Amount/Range</b>
16 TAC §9.401	NFPA 58 Section 9.4.8 (chock blocks)	\$100-250
16 TAC §9.403	Sections in NFPA 58 not adopted by reference or adopted with change or additional requirements	\$250-2,500

TABLE 5. LP-Gas Penalty Worksheet

	LP-Gas Rule/Statute	General Description	Typical Minimum Penalty Amount/Range	Penalty Tally
1	Tex. Nat. Res. Code, Chapter 113	Any violation of Chapter 113, Texas Natural Resources Code	\$1,000-2,500	\$
2	16 TAC §9.4(a)	Retention of records	\$500	\$
3	16 TAC §9.4(d)	Licensee and registrant obligations	\$2,500	\$
4	16 TAC §9.7(a)	Performing LP-gas activities without proper certification and/or license	\$500	\$
5	16 TAC §9.7(d)	Copies of licenses and/or certifications	\$100	\$
6	16 TAC §9.7(g)	Company representative and/or branch manager	\$500	\$
7	16 TAC §9.7(h)	License renewals lapse, 1-2 months	\$500	\$
8	16 TAC §9.7(h)	License renewals lapse, 3-4 months	\$750	\$
9	16 TAC §9.7(h)	License renewals lapse, 5-6 months	\$1,000	\$
10	16 TAC §9.7(h)	License renewals lapse, more than 6 months	\$1,000-2,500	\$
11	16 TAC §9.7(i)	Failure to register or renew and outlet	\$100 plus \$10 for each outlet	\$
12	16 TAC §9.9	Requirements for certificate holder renewal	\$250	\$
13	16 TAC §9.11	Employee transfers	\$100	\$
14	16 TAC §9.12	Trainees	\$500-\$1,000	\$
15	16 TAC §9.13	General installers and repairman exception	\$500-1,000	\$
16	16 TAC §9.17	Designation and responsibilities of company reps	\$500	\$
17	16 TAC §9.21	Franchise tax certification and assumed name certificates	\$500	\$
18	16 TAC §9.22	Changes in ownership, form or name of dealership	\$500	\$
19	16 TAC §9.23	Limitation/avoidance of licensee liability	\$2,500	\$
20	16 TAC §9.26	Insurance and self-insurance requirements	\$1,000	\$
21	16 TAC §9.28	Reasonable safety provisions	\$2,500	\$
22	16 TAC §9.32	Consumer safety notification	\$500	\$
23	16 TAC §9.35	Written procedure for leak check	\$100-500	\$
24	16 TAC §9.36(a)	Report of an LP-gas incident/accident	\$1,000	\$
25	16 TAC §9.36(c)	Completed Form 20	\$100	\$
26	16 TAC §9.36(e)	Category P must notify supplier of incident	\$250	\$
27	16 TAC §9.41	Testing LP-gas systems in school facilities	\$1,000	\$
28	16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), 1-5 occurrences	\$100	\$
29	16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), 6-10 occurrences	\$200	\$
30	16 TAC §9.101(b)	Filings for stationary installations Form 501 (< 10,000 gal AWC), >10 occurrences	\$500	\$
31	16 TAC §9.101(c)	Filings for stationary installations Form 500 (>=	\$1,000	\$

	<b>LP-Gas Rule/Statute</b>	<b>General Description</b>	<b>Typical Minimum Penalty Amount/Range</b>	<b>Penalty Tally</b>
		10,000 gal AWC)		
32	16 TAC §9.109	Physical inspection of stationary installation	\$250-1,000	\$
33	16 TAC §9.113	Maintenance	\$250-1,000	\$
34	16 TAC §9.114(a)	Odorization in accordance with NFPA 58	\$500-2,500	\$
35	16 TAC §9.126(a)-(b)	All appurtenances and equipment shall be listed	\$1,000	\$
36	16 TAC §9.126(c)	Licensee or operator of equipment not listed but approved for use by manufacturer shall maintain documentation	\$250	\$
37	16 TAC §9.129	Manufacturer's nameplate and markings	\$1,000	\$
38	16 TAC §9.131	200 PSIG working pressure stationary vessels	\$500-1,000	\$
39	16 TAC §9.132	Sales to unlicensed individuals	\$1,000	\$
40	16 TAC §9.134	Connecting container to piping	\$250-1,000	\$
41	16 TAC §9.135	Unsafe or unapproved containers, cylinders or piping	\$500-2,500	\$
42	16 TAC §9.136	Filling DOT containers	\$500-2,500	\$
43	16 TAC §9.137	Inspection of containers at each filling	\$500	\$
44	16 TAC §9.140	Uniform protection standards	\$100-750	\$
45	16 TAC §9.141	Uniform safety requirements	\$100-750	\$
46	16 TAC §9.142	LP-gas storage and installation requirements	\$100-500	\$
47	16 TAC §9.143	Bulkhead, internal valve, ball valve and ESV protection	\$500-2,500	\$
48	16 TAC §9.201	Applicability (includes 49 CFR 100-185)	\$500-2,500	\$
49	16 TAC §9.202	Registration and transfer of LP-gas transports	<u>\$500-1,500, plus \$300 for each transport per year operated</u>	\$
50	16 TAC §9.203	School bus, public transportation, mass and special transit	\$100-500	\$
51	16 TAC §9.204	Maintenance of vehicles	\$250-1,000	\$
52	16 TAC §9.206	Vehicle identification labels	\$50-100	\$
53	16 TAC §9.208	Testing requirements	\$250-1,000	\$
54	16 TAC §9.211	Markings	\$250	\$
55	16 TAC §9.212	Manifests	\$250	\$
56	16 TAC §9.301	NFPA 54 adopted by reference unless otherwise listed	\$250-2,500	\$
57	16 TAC §9.301	NFPA 54 Section 7.1.2.1 underground piping cover requirements	\$250-750	\$
58	16 TAC §9.301	NFPA 54 Section 7.1.7.1 connection of plastic piping	\$500-1,000	\$
59	16 TAC §9.301	NFPA 54 Section 7.1.7.3 tracer wire	\$100-500	\$
60	16 TAC §9.301	NFPA 54 Section 7.7.2.1 cap all outlets	\$100-500	\$
61	16 TAC §9.301	NFPA 54 Section 8.2.3 test for leakage	\$1,500	\$
62	16 TAC §9.301	NFPA 54 Section 9.1.1.2 appliance installation	\$500-1,000	\$
63	16 TAC §9.301	NFPA 54 Section 9.6.7 sediment trap	\$100-500	\$

	<b>LP-Gas Rule/Statute</b>	<b>General Description</b>	<b>Typical Minimum Penalty Amount/Range</b>	<b>Penalty Tally</b>
64	16 TAC §9.301	NFPA 54 Section 12.2 venting of appliances	\$500-1,000	\$
65	16 TAC §9.306	Room heaters in public buildings	\$250-1,000	\$
66	16 TAC §9.307	Identification of converted appliances	\$100-250	\$
67	16 TAC §9.308	Identification of piping installation	\$100-250	\$
68	16 TAC §9.311	Special exceptions for appliance connectors and piping support on agricultural and industrial structures	\$100-500	\$
69	16 TAC §9.312	Certification requirements for joining methods	\$500	\$
70	16 TAC §9.401	NFPA 58 adopted by reference unless otherwise listed	\$250-2,500	\$
71	16 TAC §9.401	NFPA 58 Section 6.3.1 (distance from container), first occurrence	\$500	\$
72	16 TAC §9.401	NFPA 58 Section 6.3.1 (distance from container), 2nd occurrence	\$750	\$
73	16 TAC §9.401	NFPA 58 Section 6.3.1 (distance from container), 3 or more occurrences	\$1,000	\$
74	16 TAC §9.401	NFPA 58 Section 5.2.2.2 and 11.3.1.5 (requalification of cylinders), 1-10 cylinders	\$500	\$
75	16 TAC §9.401	NFPA 58 Section 5.2.2.2 and 11.3.1.5 (requalification of cylinders), 11-20 cylinders	\$750	\$
76	16 TAC §9.401	NFPA 58 Section 5.2.2.2 and 11.3.1.5 (requalification of cylinders), >20 cylinders	\$1,000	\$
77	16 TAC §9.401	NFPA 58 Section 9.4.8 (chock blocks)	\$100-250	\$
78	16 TAC §9.403	Sections in NFPA 58 not adopted by reference or adopted with change or additional requirements	\$250-2,500	\$
79	<b>Subtotal of typical penalty amounts from Table 1 (lines 1-78, inclusive)</b>			\$
80	<b>Reduction for settlement before hearing: up to 50% of line 79 amt.</b>		_____ %	\$
81	<b>Subtotal: amount shown on line 79 less applicable settlement reduction on line 80</b>			\$
<b>Penalty enhancement amounts for threatened or actual safety hazard from Table 2</b>				
82	Death or personal injury		\$5,000 to \$20,000	\$
83	Taking facility out of service		\$1,000 to \$5,000	\$
84	Gas ignition or release requiring emergency response		\$1,000 to \$15,000	\$
85	Damage to LP-gas installation or vehicle		\$1,000 to \$5,000	\$
86	Property damage exceeding \$5,000		\$1,000 to \$15,000	\$
87	Rerouting of traffic or evacuation of premises		\$1,000 to \$5,000	\$
<b>Penalty enhancement for severity of violation from Table 2</b>				
88	Time out of compliance		\$100 to \$2,000/ mo.	\$
89	<b>Subtotal: amount shown on line 81 plus all amounts on lines 82 through 88, inclusive</b>			\$
90	Reckless conduct of person charged		Up to double line 81	\$
91	Intentional conduct of person charged		Up to triple line 81	\$
<b>Penalty enhancements for number of prior violations within past seven years from Table 3</b>				
92	One		\$1,000	\$
93	Two		\$2,000	\$

	<b>LP-Gas Rule/Statute</b>	<b>General Description</b>	<b>Typical Minimum Penalty Amount/Range</b>	<b>Penalty Tally</b>
94	Three		\$3,000	\$
95	Four		\$4,000	\$
96	Five or more		\$5,000	\$
<b>Penalty enhancements for amount of penalties within past seven years from Table 4</b>				
97	Less than \$10,000		\$1,000	\$
98	Between \$10,000 and \$25,000		\$2,500	\$
99	Between \$25,000 and \$50,000		\$5,000	\$
100	Between \$50,000 and \$100,000		\$10,000	\$
101	Over \$100,000		10% of total amount	\$
102	<b>Subtotal: Line 89 amt. plus amts. on line 90 and/or 91 plus the amt. shown on any line from 92 through 101, inclusive</b>			\$
103	<b>Reduction for demonstrated good faith of person charged</b>			\$
104	<b>TOTAL PENALTY AMOUNT: amount on line 102 less any amount shown on line 103</b>			\$

Figure: 16 TAC §9.26(a)

**§9.26 INSURANCE REQUIREMENTS  
TABLE 1**

<b>CATEGORY OF LICENSE</b>	<b>TYPE OF COVERAGE</b>	<b>FORM REQUIRED</b>	<b>STATEMENT IN LIEU OF REQUIRED INSURANCE FILING</b>
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	LPG Form 996A; the Acord™ form; or any other form prepared and signed by the insurance carrier containing all required information	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	LPG Form 998A; the Acord™ form; or any other form prepared and signed by the insurance carrier containing all required information	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	LPG Form 998A; the Acord™ form; or any other form prepared and signed by the insurance carrier containing all required information	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	LPG Form 998A; the Acord™ form; or any other form prepared and signed by the insurance carrier containing all required information	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	LPG Form 997A; the Acord™ form; or any other form prepared and signed by the insurance carrier containing all required information	LPG Form 997B

Figure 16 TAC [§9.52(h)] §9.52(i)

**LP-GAS MANAGEMENT-LEVEL TRAINING AND CONTINUING EDUCATION COURSES (Revised February 2007)**

**Table One**

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

**LP-GAS EMPLOYEE-LEVEL TRAINING AND CONTINUING EDUCATION COURSES (Revised February 2008)**

**Table Two**

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

**COURSES WHICH COUNT TOWARDS CONTINUING EDUCATION CREDIT  
FOR MANAGEMENT-LEVEL CERTIFICATE HOLDERS (Revised February 2008)**

**Table Three**

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

**COURSES WHICH COUNT TOWARDS CONTINUING EDUCATION CREDIT  
FOR EMPLOYEE-LEVEL CERTIFICATE HOLDERS (Revised [February 2008] 2014)  
Table One [Four]**

Course Number	Credit Hours <sup>1</sup>	Course Title	Portable Cylinder Filling	Motor & Mobile Fuel	Bobtail	Service & Installation	Appliance Service & Installation	Recreational Vehicle
CETP 1.0	8	Basic Principles and Practices	x	x	x	x	x	x
<del>CETP 2.1</del>	<del>8</del>	<del>Delivery Basics</del>			*			
<del>CETP 2.2</del>	<del>8</del>	<del>Operating a Bobtail to Deliver Propane Delivery Operations</del>			x			
<del>CETP 2.3</del>	<del>8</del>	<del>Operating a Transport to Deliver Propane</del>			*			
<del>CETP 2.4</del>	<del>8</del>	<del>Operating a Cylinder Delivery Vehicle to Deliver Propane Operations</del>						
<u>CETP 2.2/2.4</u>	<u>8</u>	<u>Delivery Combo</u>			<u>x</u>			
<del>CETP 2.5</del>	<del>8</del>	<del>Operating a Truck, Tank Trailer or Tractor/Trailer to Deliver or Relocate ASME Tanks</del>				*		
<del>CETP 3.1</del>	<del>8</del>	<del>Maintaining ASME Tanks</del>				*		
<del>CETP 3.2</del>	<del>8</del>	<del>Maintaining DOT Cylinders</del>	*					
<del>CETP 3.3</del>	<del>8</del>	<del>Operating Dispensing Equipment to Fill Containers</del>	*	*				
<del>CETP 3.4</del>	<del>8</del>	<del>Maintaining Bulk Plant Equipment</del>				*		
<del>CETP 3.5</del>	<del>8</del>	<del>Performing Cargo Tank Product Transfers</del>			*			
<u>CETP 3.0</u>	<u>8</u>	<u>Basic Plant Operations</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>		
<del>CETP 3.6</del>	<del>8</del>	<del>Performing Railcar Product Transfers</del>						
<del>CETP 3.7</del>	<del>8</del>	<del>Maintaining DOT Intermodal (IM) Tanks</del>						
<del>CETP 4.1</del>	<del>8</del>	<del>Layout, Design, and Selection of a Designing and Installing Exterior Vapor Distribution Systems</del>				x		
<del>CETP 4.2</del>	<del>8</del>	<del>Preparing and Installing Placing Vapor Distribution Systems and Appliances into Operation</del>				x	<u>x</u>	
<u>CETP 4.3</u>	<u>8</u>	<u>Installing Appliances and Interior Vapor Distribution Systems</u>				<u>x</u>	<u>x</u>	
<u>CETP 5.1</u>	<u>8</u>	<u>Designing and Installing Dispenser Transfer Systems</u>				<u>x</u>		
<del>CETP 5.0</del>	<del>8</del>	<del>Transfer System Operations</del>			*	*		
<del>CETP 6.0</del>	<del>8</del>	<del>Appliance Installation</del>				*	*	
<del>CETP 7.0</del>	<del>8</del>	<del>Basic Electricity for Propane Appliances</del>				*	*	
<del>CETP 8.0</del>	<del>8</del>	<del>Large Industrial/Commercial Gas-Fired Equipment</del>				x		

PERC GAS Check	8	GAS Check			*	*	*	
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Figure: 16 TAC §9.313

NFPA 54 Sections with Additional Requirements or Not Adopted

Affected NFPA 54 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments
5.6.4	additional requirements	See Commission rule §9.312, Certification Requirements for Joining Methods
Chapter 7	additional requirements	See Commission rule §9.308, Identification of Piping Installation
7.2.6	additional requirements	See Commission rule §9.311(c), Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support.
9.1.3	additional requirements	See Commission rule §9.307, Identification of Converted Appliances.
<del>9.2.6</del> 9.6.2	additional requirements	See Commission rule §9.311(a), Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support.
Chapter 10	additional requirements	See Commission rule §9.306, Room Heaters in Public Buildings.
<del>10.29</del> 10.28	not adopted	See Commission rule §9.303, Exclusion of NFPA 54, <del>§10.29</del> §10.28.

Figure: 16 TAC §9.403(a)

§9.403 Table--Sections in NFPA 58, 2008 Edition, Not Adopted by Reference, or Adopted With Changes, Additional Requirements, or Corrections (Revised February 2008)

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
3.2.2	additional requirement	In addition to definition for "Authority Having Jurisdiction," see Commission rule §9.402(a), Clarification of Certain Terms Used in NFPA 58.
4.3.1	not adopted	See Commission rules §9.27, Application for an Exception to a Safety Rule, and §9.101, Filings Required for Stationary LP-Gas Installations.
4.3.2	not adopted	See Commission rules §9.101, Filings Required for Stationary LP-Gas Installations, and §9.102 (c), Notice of Stationary LP-Gas Installations.
4.4	additional requirements	See Commission rule §9.10, Rules Examination, 9.51, General Requirements for Training and Continuing Education, and §9.52, Training and Continuing Education Courses.
5.2.1.1	additional requirements	See Commission rule §9.135, Unsafe of Unapproved Containers, Cylinders, or Piping and §9.137, Inspection of Containers at Each Filling.
5.2.2	additional requirements	See Commission rule §9.135, Unsafe of Unapproved Containers, Cylinders, or Piping and §9.137, Inspection of Containers at Each Filling.
5.2.4.2	additional requirement	See Commission rule §9.131, 200 PSIG Working Pressure Stationary Vessels.
5.2.8.1	additional requirement	See Commission rules §9.140 (g), Table 1, Uniform Protection Standards, and §9.141 (e), Uniform Safety Requirements.
5.2.8.3 (A) and (B)	not adopted	See Commission rule §9.129, Manufacturer's Nameplate and Markings on ASME Containers.
<u>5.2.8.3(C)</u>	<u>additional requirement</u>	<u>See Commission rule §9.129, Manufacturer's Nameplate and Markings on ASME Containers</u>
5.2.8.4(1)	with changes	Warning labels shall be applied to all cylinders of 4.2 lb (1.9 kg) to 100 lb (45.4 kg) LP-Gas capacity and not filled on site. The label shall include information on the potential hazards of LP-Gas.
5.2.8.5	not adopted	See Commission rule §9.140, Table 1, Uniform Protection Standards.
<del>5.7.2.4(A)</del> <del>5.7.2.5(A)</del>	additional requirement	See Commission rule §9.131, 200 PSIG Working Pressure Stationary Vessels.
5.7.3.1	with changes	Cylinders with 4.2 lb (1.9 kg) through 40 lb (18 kg) propane capacity for vapor service shall be equipped or fitted with a listed overfilling prevention device that complies with UL 2227, <i>Overfilling Prevention Devices</i> , and a fixed maximum liquid level gauge. These devices shall be permitted to be a part of the container valve assembly.
<del>5.7.2.4(A)</del>	<del>additional requirement</del>	<del>See Commission rule §9.131, 200 PSIG Working Pressure Stationary Vessels.</del>
5.7.4.1	additional requirements <del>and with changes</del>	See Commission rules <del>§9.9.143(e), §9.143(e)</del> <u>Containers of 4000 gal (7.6 m<sup>3</sup>) water capacity or less shall be fitted with valves and other appurtenances in accordance with Table 5.7.4.1. Shutoff, filler, check, and excess flow valves shall comply with ANSI/UL 125, <i>Standard for Valves for Anhydrous Ammonia and LP Gas (Other than Safety Relief)</i>, except that shutoff valves used on DOT cylinders shall comply with UL 1769, <i>Cylinder Valves</i>. Containers over 4000 gal (15.1 m<sup>3</sup>) water capacity shall be fitted with valves and other appurtenances in accordance with 5.7.4.2 as adopted with changes.</u>
Table <del>5.7.4.1</del> <u>5.7.4.1(D)</u>	with changes	Heading: Container Connection and Appurtenance Requirements Column 1 Header: Cylinders 4.2 Through 420 lb Propane Capacity Part F, Column 2: R (4.2 thru 40 lb) (see 5.7.3)
<del>5.7.4.1(G)</del> <u>5.7.4.1(9)</u>	with changes	Overfilling prevention devices shall be required on cylinders having 4.2 lb through 40 lb (1.9 kg through 18 kg) propane capacity for vapor service. (See 5.7.3)

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
5.7.4.2	<u>Additional requirement and with changes</u>	See Commission rules §9.143(c) ASME containers over 4000 gal (15.2 m3) water capacity shall be equipped in accordance with the following: (A through I not adopted.) 1. Container openings 1¼ -inch or greater: a. A pneumatically operated internal valve 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, or a positive shutoff valve in combination with a back flow check valve. b. An internal valve installed in containers prior to February 1, 2001, shall be equipped for pneumatically-operated remote closure and automatic shutoff using thermal (fire) actuation as described above by February 1, 2003. c. Each container equipped with a positive shutoff valve that is located as close to the container as is practical in combination with an excess flow valve shall be retrofitted by February 1, 2006, with one of the following: 1. A pneumatically operated internal valve equipped for remote closure and automatic shutoff using thermal (fire) actuation installed directly into the container. 2. A pneumatically operated emergency shutoff valve equipped for remote closure and automatic shutoff using thermal (fire) actuation installed in the line downstream within four feet of 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. d. Any vapor or liquid withdrawal opening 1 1/4 inch or larger with piping attached that exclusively provides service to stationary appliances or equipment, which is not part of a transfer system, may be equipped with an excess flow valve and a shutoff valve installed as close as practical to the container, in lieu of an internal valve or emergency shutoff valve. e. For reducing the size of a container opening, only one bushing with a minimum pressure rating in accordance with Table 5.9.4.1 shall be installed. f. Container openings that are not compatible with internal valves shall be permitted to utilize both an excess-flow valve installed in the container and <u>an emergency shutoff valve</u> or a valve complying with API 607, <i>Fire Test <del>Soft-Seated-for</del> Quarter Turn Ball Valves Equipped with Non-Metallic Seats</i> , which shall be pneumatically actuated and shall fail in the closed position. 2. Container openings less than 1¼-inch: 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 pneumatically operated internal valve with an integral excess-flow valve or excess-flow protection, or c. A double back flow check filler valve.
Table 5.7.4.2	not adopted	See NFPA 58 5.7.4.2 with changes
5.7.4.3	not adopted	<del>See NFPA 5.7.4.1 with changes</del>
5.7.4.5	with changes	The appurtenances specified in Table <del>5.7.4.1</del> <u>5.7.4.1(D)</u> shall comply with the following: (1 - 6 no changes)
5.7.7.1	with changes	Other container openings shall be equipped with any of the following: (1 - 5 no change) (6) For reducing the size of a container opening, only one bushing with a minimum pressure rating in accordance with Table <del>5.9.4.1</del> <u>5.9.4.2</u> shall be installed.
5.9.5	<del>additional requirement</del>	<del>See Commission rule §9.312(b), Certification Requirements for Joining Methods.</del>
5.9.6	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.
5.9.6.5	additional requirement	See Commission rule §9.311, Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and Piping Support.
5.20	additional requirement	See Commission rule §9.307, Identification of Converted Appliances.

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
6.2.2	with changes	LP-Gas containers shall be <del>located outside of</del> <u>allowed inside buildings only for the following applications:-</u> 1: (no change.) 2: Containers from 1 gal (3.785 l) to 125 gal (0.5 m3) water capacity for the purposes of being filled in buildings or structures complying with Chapter 10. [3 – 7 no changes]
<del>6.3.1</del> <u>6.3.1.1</u>	additional requirement <del>and with changes</del>	In addition to <del>6.3.1</del> <u>6.3.1.1</u> , see Commission rule §9.142, LP-Gas Container Storage and Installation Requirements. <del>Containers installed outside of buildings, whether of the portable type replaced on a cylinder exchange basis or permanently installed and refilled at the installation, shall be located with respect to the adjacent containers, important building, group of buildings, or line of adjoining property that can be built upon, in accordance with Table 6.3.1, Table 6.4.2, Table 6.4.5.8, and 6.32 6.3.3 through 6.3.12.</del>
<del>6.3.2</del>	<del>not adopted</del>	
<del>6.4.1</del> <u>6.4.1.1</u>	with changes	Where containers are located in heavily populated or congested areas, the siting provisions of <del>6.3.1</del> <u>6.3.1.1</u> and Table <del>6.3.1</del> <u>6.3.1.1</u> shall be permitted to be modified by the Commission.
<del>6.4.7</del> <u>6.4.5</u>	additional requirement	See Commission rule §9.141(f), Uniform Safety Requirements.
<del>6.5.4</del> <u>6.5.2.2</u>	additional requirement	See Commission rule §9.101(c)(2), Filings Required for Stationary LP-Gas Installations.
6.6.1.2	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
6.6.1.4	additional requirement	See Commission rule §9.141(a), Uniform Safety Requirements.
6.6.2.1	with changes	Cylinders shall be installed only aboveground, and shall be set upon a firm foundation of concrete, masonry, or metal and be firmly secured against displacement. <del>The cylinder shall not be in contact with the soil.</del>
6.6.3.1	with changes	Horizontal ASME containers designed for permanent installation in stationary service above ground shall be placed on masonry or other noncombustible structural supports located on concrete or masonry foundations with the container supports. Containers shall not be in contact with the soil.
<u>6.6.6</u>	<u>additional requirement</u>	<u>See Commission rule §9.141(j), tank anchoring</u>
<del>6.6.6.1 (a) – (d)</del> <del>6.6.6.1(A) – (D)</del>	additional requirement	See Commission rule §9.140(d), Uniform Protection Standards.
<u>6.6.6.1(I)</u>	<u>additional requirement</u>	<u>See Commission rule §9.116, Container Corrosion Protection System</u>
<del>6.6.6.2(6)</del> <del>6.6.6.2(F)</del>	additional requirement	See Commission rule §9.140, Uniform Protection Standards.
<u>6.6.6.2(I)</u>	<u>additional requirement</u>	<u>See Commission rule §9.116, Container Corrosion Protection System</u>
<u>6.6.6.3(F)</u>	<u>additional requirement</u>	<u>See Commission rule §9.116, Container Corrosion Protection System</u>
<del>6.8.2(B)</del> <u>6.8.2.3</u>	with changes	Single-stage regulators shall not be installed in fixed piping systems <u>on or after February 1, 2001</u> <del>June 30, 1997</del> , except for installations covered in 6.8.2(C). <u>Single-stage regulators in good working order installed prior to February 1, 2001, may remain in service.</u>
<u>6.9.3.10</u>	<u>with changes</u>	<u>Aboveground piping shall be supported and protected against physical damage by vehicles.</u>
<u>6.9.3.14</u>	<u>additional requirement</u>	<u>See Commission rule §9.116, Container Corrosion Protection System</u>
<u>6.9.3.16</u>	<u>with changes</u>	<u>Underground metallic piping, tubing or both that conveys LP-Gas from an underground partially buried or mounded <del>a</del> gas container shall be provided with dielectric fittings installed aboveground and outdoors at the building to electrically isolate it from the aboveground portion of the fixed piping system that enters a building.</u>
6.9.6.1	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.
6.9.6.2	with changes	Flexible metallic connectors shall not exceed <del>60 in.</del> <u>5 ft</u> (1.52 m) in overall length when used with liquid or vapor piping on stationary containers.

Affected NFPA 58 Section	Specific Action	Commission Rule(s) to be Followed or Other Comments (underlining shows added language; strike-outs show deleted language)
6.11.1	with changes	The requirements of 6.11.2 through 6.11.5 shall be required for internal valves in liquid service installed on containers over 4000-gal (15.2-m <sup>3</sup> ) water capacity by July 1, 2003.
6.11.2	with changes	Internal valves shall be installed in accordance with 5.7.4.2 on containers over 4000 gal (15.2 m <sup>3</sup> ) water capacity.
<del>6.11.3</del> <u>6.11.3.1</u>	with changes	Automatic shutdown of internal valves in liquid and/or vapor service shall be provided using thermal (fire) actuation. <del>The thermal sensing element of the internal valve shall be within 5 ft (1.5 m) of the internal valve.</del>
<del>6.11.4</del> <u>6.11.4.1</u>	with changes	At least one remote shutdown station for internal valves in liquid and/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. <del>This shall be retroactive to all internal valves required by the code.</del>
6.11.5	not adopted	See Commission rule §9.140 (g), Uniform Protection Standards, Table 1.
6.12	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.
<del>6.16.2</del>	<del>not adopted</del>	
<del>6.18.1</del> <u>6.19.1</u>	not adopted	See Commission rule §9.113.
<del>6.18.4.2</del> <u>6.19.4.2</u>	additional requirements	See Commission rule §9.140 (b) and (d), Uniform Protection Standards.
<del>6.19.2.1</del> <u>6.20.2.1</u>	with changes	Cylinders shall be in accordance with the following requirements: (1) - <del>(4)</del> <u>(3)</u> (No change.) <del>(5)</del> <u>(4)</u> Cylinders with LP-gas capacities greater than 4.2 lb (1.9 kg) shall be equipped as provided in Table 5.7.4.1, and an excess-flow valve shall be provided for vapor service when used indoors. <del>(6)</del> <u>(5)</u> (No change.) <del>(7)</del> <u>(6)</u> Cylinders having LP-gas capacities greater than 4.2 lb (1.9 kg) and connected for use shall stand on a firm and substantially level surface. <del>(8—9</del> <u>7-8</u> No change)
<del>6.19.3.2</del> <u>6.20.3.2</u>	additional requirement	See Commission rule §9.140(b), Uniform Protection Standards.
<del>6.19.3.6</del> <u>6.20.3.6</u>	with changes	Transportation (movement) of cylinders having LP-gas capacities greater than 4.2 lb (1.9 kg) within a building shall be restricted to movement directly associated with the uses covered by section 6.19. (A) Valve outlets on cylinders having LP-gas capacities greater than 4.2 lb (1.9 kg) shall be tightly plugged, capped, or sealed with a listed quick-closing coupling or a listed quick-connect coupling. (B-C) (No change.)
<del>6.19.5.1(2)</del> <u>6.20.5.1(2)</u>	with changes	Cylinders having an LP-gas capacity greater than 4.2 lb (1.9 kg) shall not be left unattended.
<del>6.19.5.2</del> <u>6.20.5.2</u>	with changes	During the hours the building is not open to the public, cylinders used and transported within the building for repair or minor renovation and with an LP-gas capacity greater than 4.2 lb (1.9 kg) shall not be left unattended.
<del>6.19.9.3</del> <u>6.20.9.3</u>	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
<del>6.19.9.4</del> <u>6.20.9.4</u>	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
<del>6.19.11.2</del> <u>6.20.11.2</u>	with changes	Cylinders having an LP-gas capacity greater than 4.2 lb (1.9 kg) LP-gas shall not be located on decks or balconies of dwellings of two or more living units above the first floor unless they are served by exterior stairways.
<del>6.20.2.1</del> <u>6.21.2.1</u>	with changes	Patio heaters utilizing an integral LP-Gas container greater than 4.2 lb (1.9 kg) propane capacity shall comply with <del>6.20.2.2 and 6.20.2.3</del> <u>6.21.2.2 and 6.21.2.3.</u>
<del>6.22.2.4</del> <u>6.23.2.4</u>	with changes	The provision of <del>6.22.2.2</del> <u>6.23.2.2</u> shall not apply to fixed electrical equipment at residential installations of LP-Gas systems or to systems covered by Section <del>6.23</del> <u>6.24.</u>
<del>6.24.3.7</del> <u>6.25.3.7</u>	additional requirements	See Commission rule §9.140(b), Uniform Protection Requirements.
<del>6.24.3.8</del> <u>6.25.3.8</u>	with changes	The container liquid withdrawal opening used with retail operated vehicle fuel dispensers and retail operated dispensing stations shall be equipped with one of the following: (1) – (2) (No change)

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<del>6.24.3.12</del> <u>6.25.3.12</u>	additional requirement	See Commission rule §9.140(d), Uniform Protection Standards.
<del>6.24.3.13</del> <u>6.25.3.16</u>	with changes	A listed quick-acting shutoff valve or a listed quarter turn ball valve with a locking handle shall be installed at the discharge end of the transfer hose.
<del>6.24.3.14</del> <u>6.25.3.17</u>	additional requirements	See Commission rule §9.140, Uniform Protection Standards, Table 1.
<del>6.24.4.2</del> <u>6.25.4.2</u>	additional requirements	See Commission rule §9.141(b), Uniform Safety Requirements.
<del>6.25.3</del>	<del>not adopted</del>	<del>Commission rules require all redundant safety features.</del>
<del>6.26</del>	<del>with changes</del>	<del>Alternate Provisions for Installation of Underground and Mounded ASME Containers.</del>
7.2.3.8	additional requirement	See Commission rule §9.140 (b), Uniform Protection Standards.
7.4.2.1	additional requirement	See Commission rule §9.136, Filling of DOT Containers.
7.4.3.1	with changes	The volumetric method shall be limited to the following containers, where they are designed and equipped for filling by volume: (1) Cylinders of 101 lb LP-gas capacity or more (2) Cargo tanks or portable tanks (3) ASME and API-ASME containers complying with 5.2.1.1 or 5.2.4.2
8.2.1.1	additional requirement	See Commission rule §9.140(b), Uniform Protection Standards.
8.3.1	not adopted	
Table 8.3.1(a)	not adopted	
Table 8.3.1(b)	with changes	Heading: Maximum Allowable Storage Quantities of LP-Gas in Industrial and Storage Occupancies Column <del>2</del> <u>1</u> (Mercantile) Not Adopted
8.3.2	not adopted	See Commission rule §9.1(e), Application of Rules, Severability, and Retroactivity.
<u>8.4.1.1</u>	<u>additional requirement</u>	<u>See Commission rule §9.141(i), Uniform Safety Requirements</u>
8.4.2.1	additional requirement	See Commission rule §9.140(b) and (d), Uniform Protection Standards.
8.4.2.2	<del>additional requirement</del> <del>not adopted</del>	See Commission rule §9.140(d), Uniform Protection Standards.
8.4.3	not adopted	See Commission rule §9.27, Application for an Exception to a Safety Rule.
<u>8.5.5</u>	<u>additional requirement</u>	<u>See Commission rule §9.141(i), Uniform Safety Requirements</u>
9.4.6.2	additional requirement	See Commission rule §9.211, Markings.
<u>9.4.8</u>	<u>with changes</u>	<u>Any unit registered with the Commission</u> <del>Each cargo tank vehicle or trailer shall utilize a wheel stop, in addition to the parking or hand brake, whenever the unit cargo tank vehicle is loading, unloading or parked, to prevent the unit from unintended movement.</del>
<u>9.6.2.2</u>	<u>not adopted</u>	<u>See Code of Federal Regulations Title 49 §178.315(g)</u>
<del>9.6.2.2(2)</del> <u>9.6.2.2(3)</u>	with changes	Valves and fittings shall be protected by a method to minimize the possibility of damage.
11.2	additional requirements	See Commission rules <del>§9.10</del> <u>§9.51</u> , General Requirements for LP-Gas Training and Continuing Education, and <del>§9.51</del> <u>§9.52</u> , Training and Continuing Education <del>Courses</del> .
<del>11.3.4</del> <u>11.3.4(A)</u>	not adopted	See Commission rule §9.129, Manufacturer's Nameplate and Markings on ASME Containers.
<u>11.3.4(B)</u>	<u>additional requirement</u>	<u>See Commission rule §9.129(e), Manufacturer's Nameplate and Markings on ASME Containers</u>
<del>11.7.4.1</del> <u>11.8.4.1</u>	with changes	Fuel containers shall be installed to prevent their jarring loose and slipping or rotating, and the fastenings shall be designed and constructed to withstand without permanent deformation static loading in any direction equal to four times the weight of the container filled with fuel. <u>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.</u>
<del>11.11.2.2</del> <u>11.12.1.4</u>	with changes	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 or Pantone 2945 C Royal Blue or equivalent background.
Chapter 13	not adopted	Commission authority does not extend to marine shipping and receiving activities.
<u>Chapter 14</u>	<u>not adopted</u>	

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14.1	with changes	Scope. This chapter includes requirements related to the operations and maintenance of bulk plant, industrial plant, refrigerated, marine, and pipeline LP-Gas systems. The provisions of this chapter shall be applicable to all new and existing installations.
14.4.3.3	Additional requirement	See Commission rules §9.36, Report of LP-Gas Incident/Accident.
14.4.9.1	Additional requirement	See Commission rules §9.35, Written Procedure for LP-Gas Leaks.