

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

INDEPENDENT REGULATORY
REVIEW COMMISSION

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SECTION I: PROFILE

(1) Agency:

Department of Labor and Industry

(2) Agency Number:

Identification Number: 12-76

IRRC Number:

2775

(3) Short Title: Propane and Liquefied Petroleum Gas Regulations

(4) PA Code Cite: 34 Pa. Code, Part I, Ch. 13

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Jack Davenport (717) 772-2443
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(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 Certification by the Governor

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Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This regulation is promulgated to implement the provisions of the Propane and Liquefied Petroleum Gas Act, the act of June 19, 2002 (P.L. 421, No. 61) (Act 61) (35 P.S. § 1329.1-1329.19) and regulates the storage, transfer, sale and use of liquefied petroleum gas. The regulation provides for approval of training programs for authorized attendants and adopts fees and provides for registrations and annual permits. In addition, the regulation requires facilities to maintain insurance. It also sets forth the application and plan approval processes and provides for enforcement by the Department. The regulation also repeals existing outdated regulations currently at 34 Pa. Code, Ch. 13.

(9) Include a schedule for review of the regulation including:

- | | |
|---|---|
| A. The date by which the agency must receive public comments: | <u>30 days after publication</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>September 2009</u> |
| D. The expected effective date of the final-form regulation: | <u>upon publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>Some provisions will require immediate compliance. All provisions must be complied with by January 1, 2018</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>Permits and approvals are currently required by the existing regulations.</u> |

(10) Provide the schedule for continual review of the regulation.

The regulation will be reviewed and updated as needed.

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

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This regulation is promulgated under the authority provided in Section 16 of Act 61 (35 P.S. § 1329.16). Section 5 of Act 61 (35 P.S. § 1329.5) also mandates that the Department establish fees by regulation for the approval of new and expansion of existing liquefied petroleum gas facilities, permits and certification of training programs.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Section 16 of Act 61 (35 P.S. § 1329.16) provides: "The department shall promulgate and enforce regulations to implement this act."

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The purpose of Act 61 is to protect the public from catastrophic loss related to the storage, transfer, sale or use of liquefied petroleum gas. Act 61 permits the Department to adopt current national standards for the design, construction, location, operation and inspection of tanks, cylinders and piping from the tank or cylinder. It requires that liquefied petroleum gas facilities maintain sufficient liability insurance coverage. It also requires that authorized attendants are properly trained and that facilities are properly approved and issue annual permits by the Department. Finally, the regulation provides for enforcement measures when a facility is operating in violation of Act 61 or these regulations. All citizens of the Commonwealth will benefit from increased safety and the application of accepted national standards.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

Owners and operators of liquefied petroleum gas facilities may be adversely affected, as they may be required to absorb the cost of compliance. Because this regulation is based on the current national standards, owners and operators may already be in compliance.

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(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

Owners and operators of liquefied petroleum gas (LPG) facilities, including bulk plants, distributors, industrial users, dispensing stations and cylinder exchange cabinets, must comply with this regulation. Also, all LPG facility operators must provide authorized attendant training to all individuals who transfer LPG. The Department currently has 4065 active LPG facilities registered and permitted.

SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Costs to the regulated community will be similar to the current costs incurred by the LPG registration and permitting program. The Department projects collection of \$208,000.00 per year in registration and permitting fees promulgated by this regulation which is a direct cost to the regulated community. It is projected that this regulation will not generate any savings to the regulated community.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no projected costs to local governments.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The costs will be similar to the current costs incurred by the propane and liquefied petroleum gas inspection program. Total program costs for FY 07-08 were \$403,884.00. **No additional costs are projected due to this proposed regulation.**

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. **These are not additional costs.**

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	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Savings	N/A					
COSTS:						
Regulated Community	104,000	208,000	208,000	208,000	208,000	208,000
Local Government	N/A					
State Government	201,942	404,000	420,160	436,966	454,944	472,621
Total Costs	305,942	612,000	628,160	644,966	662,944	680,621
REVENUE LOSSES:						
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Revenue Losses	N/A					

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Liquefied Petroleum Gas is one of nine programs supported by this appropriation.

Program	FY -3	FY -2	FY -1	Current FY
Occupational and Industrial Safety	11,626,000	12,334,000	12,894,000	12,715,000

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Act 61 requires the Department to promulgate this regulation. The benefits of uniform standards

Regulatory Analysis Form

adopting the most current national standards and increased safety outweigh the costs to the regulation community.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

Section 12 of Act 61 created the Liquefied Petroleum Gas Advisory Board to, among other things, review and comment on all regulations before the release of such regulation. The Department sought input and approval from the Board in the drafting of this regulation. The Board reviewed drafts of this regulation and provided comment and input on a number of substantive issues. It met on November 16, 2004, June 17, 2008 and September 9, 2008 to review and provide comments on these regulations. In addition, the Department has consulted with industry representatives and sought input from the industry during the drafting process, including the Pennsylvania Propane Gas Association.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternatives were considered. This regulation updates the existing regulation and adopts national standards used by most states and by the industry. These regulations represent the least burdensome acceptable alternative.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no provisions that are more stringent than federal standards.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

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The regulation is similar to that of other states. It incorporates current national standards. It will not place Pennsylvania at a competitive disadvantage in relationship to other states.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will replace the existing liquefied petroleum gas regulations at 34 Pa. Code, Title I, Subchapter A (34 Pa. Code §§ 13.1-13.111).

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The regulation will not significantly change existing reporting, record keeping or other paperwork requirements. Current forms will be updated following enactment of the regulation.

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

There are no special provisions that have been developed to meet the particular needs of the groups indicated above.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**
(Pursuant to Commonwealth Documents Law)

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COMMISSION

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: <i>Amy M. Elliott</i> DEPUTY ATTORNEY GENERAL JUN 15 2009 DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p align="center">Department of Labor & Industry (AGENCY)</p> <p>DOCUMENT / FISCAL NOTE NO. 12-76</p> <p>DATE OF ADOPTION:</p> <p>BY: <i>Sandi Vito</i> TITLE: Acting Secretary (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or independent Agencies</p> <p>BY: <i>Andrew C. Clark</i> Deputy General Counsel DATE OF APPROVAL: MAY 15 2009</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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PROPOSED RULEMAKING

Title 34 Labor & Industry
Propane and Liquefied Petroleum Gas
Chapter 13
[34 Pa. Code Part I, Chapter 13]

PROPOSED RULEMAKING

Title 34 Labor and Industry Propane and Liquefied Petroleum Gas Regulations Chapter 13 [34 Pa. Code, Part I, Chapter 13]

In accordance with Section 16 of the "Propane and Liquefied Petroleum Gas Act," the act of June 19, 2002 (P.L. 421, No. 61) (Act 61), the Department of Labor and Industry (Department) is submitting proposed rulemaking for the regulation of propane and liquefied petroleum gas.

The Department proposes the following amended regulations for propane and liquefied petroleum gas under the Propane and Liquefied Petroleum Gas Act (35 P.S. §§ 1329.1-1329.19) as set forth in Annex A.

Statutory Authority

This proposed rulemaking is issued under the authority provided in Section 16 of Act 61 (35 P.S. § 1329.16) which provides: "The department shall promulgate and enforce regulations to implement this Act. These regulations may include setting forth minimum general standards covering the design, installation and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases, specifying the odorization of the gases and establishing guidelines for the processes and technologies that are not covered by industry standards."

Section 5(a) of Act 61 (35 P.S. § 1329.5(a)) also mandates that the Department establish fees by regulation for the approval of new and expansion of existing liquefied petroleum gas facilities, permits and certification of training programs. Section 17(a)(1) of Act 61 charges the Department with responsibility for enforcing the Act and regulations promulgated under Act 61. (35 P.S. § 1329.17(a)(1)).

Background

Liquefied petroleum gas is a highly flammable and combustible material, which can pose a serious threat to life and property if stored or handled improperly or if a leak occurs. The Commonwealth previously enacted a Liquefied Petroleum Gas Act, act of December 27, 1951, P.L. 1793 No. 475 (35 P.S. §§ 1321-1329,

repealed). In 2002, the legislature replaced this repealed act with Act 61 in an effort to bring the Commonwealth's liquefied petroleum gas program up to current national standards of safety, training and inspection. Act 61's primary improvement was requiring nationally accepted standards for and consistent application of inspections of liquefied petroleum gas containers and facilities. The proposed rulemaking is intended to amend the existing regulations regarding liquefied petroleum gas at 34 Pa. Code, Chapter 13, Title I, Subchapter A.

Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

Since the passage of Act 61, the Department has sought input from the Liquefied Petroleum Gas Advisory Board. The Liquefied Petroleum Gas Advisory Board was created by Section 12 of Act 61 to review and comment on all regulations before release of the regulations (35 P.S. § 1329.12). The Board consists of representatives from the Liquefied Petroleum Gas Industry and a consumer representative. The Board reviewed drafts of this regulation and provided comments and input on a number of substantive issues. The Liquefied Petroleum Gas Advisory Board met to review and comment on these regulations on November 16, 2004, June 17, 2008 and September 9, 2008.

The Department has also provided draft copies of the regulation to industry representatives and associations for input during the drafting process, including the Pennsylvania Propane Gas Association.

Purpose

This regulation is necessary to implement Pennsylvania's Propane and Liquefied Petroleum Gas Act contained in Act 61. The regulation adopts national standards which bring Pennsylvania's program to the most current "state of the art" in technology and safety. The regulation applies to bulk plants, distributors and industrial users and regulates the storage, transfer, sale and use of liquefied petroleum gas, including providing for approval of training programs for authorized attendants. The regulation adopts fees, provides for registration and annual permits and requires facilities to maintain insurance. The regulation sets forth the application and plan approval processes and provides for enforcement by the Department if an inspection reveals violations of the Act or its regulations.

Under section 18(b) of Act 61 (35 P.S. § 1329.18(b)), this regulation does not apply to persons that both sell liquefied petroleum gas and the container in which the liquefied petroleum gas is contained if the container is not more than 2.5 pounds water capacity.

This regulation will amend the existing regulations dealing with liquefied petroleum gas at 34 Pa. Code Chapter 13, Title I, Subchapter A (34 Pa. Code §§ 13.1-13.111).

Summary of Proposed Rulemaking

Subchapter A – General Provisions.

§ 13.1. Definitions.

This section provides definitions for the terms used in the regulation.

It provides the statutory citation for Act 61, 35 P.S. §§ 1329.1-1329.19.

This section identifies and provides addresses for the American Society of Mechanical Engineers (ASME), the Propane Education and Research Council, the National Board of Boiler and Pressure Vessel Inspectors, the National Fire Protection Association (NFPA) and the National Propane Gas Association (NPGA).

It also provides information on the national standards adopted by this regulation, such as ASME Code, National Board Inspection Code and NFPA 58.

It contains definitions of such terms as “bulk plant,” “container,” “cylinder,” “cylinder exchange cabinets,” “dispensing station,” “industrial user,” “tank” and “transfer.”

§ 13.2. Scope.

This regulation applies to the registration and permitting of bulk plants, distributors and industrial users. It applies to any storage, transfer, sale or use of liquefied petroleum gas. It applies to the design, construction, location, operation and inspection of tanks, cylinders and piping from the tank or cylinder to the regulator immediately outside a building. It sets forth the process for the approval of training programs for authorized attendants.

§ 13.3. Fees.

This section sets out the fees for facility applications, plan approvals, permits and training program certifications, required by Section 5 of Act 61. (35 P.S. § 1329.5). This section also establishes a \$100 fee to apply for an Industrial Board variance. The fee is consistent with the Uniform Construction Code variance application fee. 34 Pa. Code § 401.2(h) (relating to Department fees).

§ 13.4. Adoption of national standards.

This section states that the Department adopts NFPA 54 and NFPA 58, the standards referenced in these publications and published cases, interpretations or tentative interim amendments approved by the Industrial Board, except NFPA 58 sections that were specifically excluded from this regulation. It also sets forth effective dates for certain portions of NFPA 58.

§ 13.5. Registration and annual permits.

This section requires operators of bulk plants, distributors and industrial users to register with the Department by submission of a form, payment of the appropriate fee and submission of a valid copy of an industry standard insurance certificate, demonstrating liability insurance coverage as required by § 13.6 (relating to insurance).

This section also provides that the Department will issue an annual permit, which shall be posted by the bulk plant, distributor or industrial user.

§ 13.6. Insurance.

This section requires liquefied petroleum gas facilities to secure and maintain liability insurance policies in the amounts set forth, according to the facility's storage capacity.

§ 13.7. Transfer of LPG.

This section provides that only an authorized attendant, as defined in the regulations, may transfer liquefied petroleum gas. It further provides that no distributor will provide product to a bulk plant, industrial user or other distributor unless the distributor has a current annual permit issued by the Department.

Subchapter B – Requirements for Facilities, Tanks and Cylinders.

§ 13.20. Application process and plan approval.

This section requires the owner or operator of the following to submit an application to the Department: a liquefied petroleum gas tank exceeding 2,000 gallons capacity, a fixed location with aggregate capacity exceeding 4,000 gallons, or a dispensing station or a cylinder exchange cabinet location. The application must include a completed registration form and proof of annual insurance set forth in § 13.5 (relating to registration and annual permit); the appropriate fee set forth in § 13.3 (relating to fees); plans that provide information regarding equipment, distances of equipment to buildings, security, fire protection and vehicle protection measures; a fire safety analysis required by NFPA 58; and, a manufacturer's data report for each unfired pressure vessel.

For distributors installing or expanding a bulk plant with a capacity of less than 9,000 gallons or industrial users with a total storage capacity of less than 9,000 gallons, this section permits submission of a Notice of Intent to Install form, instead of plans.

This section prohibits an owner or operator of the following to operate until it has received an annual permit issued by the Department: a liquefied petroleum gas tank exceeding 2,000 gallons capacity, a fixed location with aggregate capacity exceeding 4,000 gallons, a dispensing station or a cylinder exchange cabinet. It also requires the Department to inspect applicants for compliance with the plans or notice of intent to install before issuance of the annual permit.

This section requires that a manufacturer's data report for every unfired pressure vessel be registered with the National Board.

§ 13.21. LPG facilities over 400,000 gallons.

This section requires the owner or operator of a new liquefied petroleum gas facility in excess of 400,000 gallons or an existing liquefied petroleum gas

facility expanded to exceed 400,000 gallons to submit an application to the Department. The application must include a completed registration form required by § 13.5 (relating to registration and annual permits) and documentation and plans demonstrating storage quantities; proximity to populated areas and public ways; the impact of rejection from the Department upon the facility's ability to service current and anticipated customer needs and upon the facility's business investment; risk to and from existing adjacent facilities; topography of the site; access for emergency vehicle response; utilities (public and private); requirements for receipt or shipment of products; compliance with local land use ordinances; and the safety plan proposed by the facility. The application must also include proof of notification to the municipality set forth in subsection (b). The application must include the appropriate fee required by § 13.3 (relating to fees).

Subsection (b) requires that upon submission of an application, the applicant send notification to the municipality where the facility is located of its Department filing through certified mail.

This section provides that the Department will publish notice of the application in the *Pennsylvania Bulletin* and provides an aggrieved party 45 days from this publication to file a protest with the Department. In addition, the municipality or county has 45 days to file a written comment with the Department.

Within 90 days of publication, the Department will issue a written determination approving or disapproving the application and will send a copy by certified mail to the applicant and to any party who filed a protest or submitted written comments.

Subsection (e) prohibits the facility owner or operator from installing or operating the facility or the expanded portion of the facility until it receives an annual permit issued by the Department.

§ 13.22. Underground tanks.

This section requires that underground tanks be installed in accordance with NPFA 58 and that dealers maintain records of installation locations using GPS coordinates for underground tanks exceeding 2,000 gallons water capacity.

§ 13.23. Repairs to ASME vessels.

This section requires that repairs to ASME vessels be performed in accordance with the National Board Inspection Code.

§ 13.24. Cylinder exchange cabinets.

This section requires retailers and locations using cylinder exchange cabinets to comply with Section 8.4.1 of NFPA 58 and provides that busy thoroughfares or sidewalks, as those terms are used in Section 8.4.1.2(3) of NFPA 58, include sidewalks, concrete aprons and parking lots at retail establishments.

Subchapter C – Training Programs.

§ 13.40. Training programs for authorized attendants.

This section requires that an individual must satisfactorily complete a training program approved by the Department for becoming an authorized attendant. It requires that all training programs include information regarding physical properties and combustion characteristics of propane; propane industry standards, safety codes and regulations; basic parts of propane tanks, cylinders and bulk storage installations; proper use of safety and protective equipment; and, maintenance of a safe working environment.

In addition to these basic requirements, training programs for attendants who will deliver liquefied petroleum gas must also include proper inspection, maintenance and operation of bulk propane delivery vehicles; proper inspection and filling of propane storage containers; and proper delivery of propane including exchange and filling of LPG containers. This section also requires that training programs for attendants who are employed in bulk plant operations must include identification and installation of valves in propane storage containers; identification and installation of gauges in propane storage containers; safe removal of propane from tanks and cylinders at the plant and at the container site; inspection, maintenance and filling of propane tanks and cylinders at the plant and at the container site; and proper unloading of propane transports and rail cars, in addition to the basic training requirements.

§ 13.41. Training program approval.

This section provides that the Department will approve facility operator provided training programs. It requires each liquefied petroleum gas operator that has individuals who transfer liquefied petroleum gas to submit a completed application for training program approval to the Department, with a detailed description of its training program and the appropriate fee under § 13.3 (relating to fees). The Department will issue a program approval certificate or will inform the facility operator in writing of the reasons for rejecting a training program.

Subsection (c) requires facility operators to notify the Department in writing of any changes in their approved training program.

Subsection (d) provides that instead of developing and submitting a training program for authorized attendants, an LPG facility operator may utilize the Propane Education and Research Council training programs. A facility electing to use the Propane Education and Research Council program must notify the Department in writing of that election.

Subsection (e) requires facility operators to maintain training records for as long as the authorized attendant is employed by the facility. The records must include the date of training, the name of the authorized attendant, the name of the course and the name of the trainer or supervisor.

Subchapter D – Administration.

§ 13.50. Suspension of annual permit for container.

This section provides that the Department will suspend the annual permit and seal of a liquefied petroleum gas container that is unsafe. It provides that a person, firm, partnership or corporation operating a liquefied petroleum gas container or facility with a suspended permit is subject to the penalties of section 17 of Act 61 (35 P.S. § 1329.17).

§ 13.51. Suspension of annual permit for owner or operator.

This section provides that the Department will suspend the annual permit of an owner or operator for failure to pay the fee required in § 13.3 (relating to fees) or for any violation of the Act or this chapter.

§ 13.52. Notice of Deficiency.

This section sets forth the procedures that will be used by the Department if an inspection reveals any violation of the Act or this chapter. It provides that the Department will issue a written notice of deficiency to the owners or operators of the container or facility containing a description of the violations and an order requiring correction of the violations and repairs. The written notice of deficiency will include a certification for the owner or operator to complete certifying that the required repairs have been completed, which must be returned to the Department.

If the owner or operator does not correct the deficiency within the period of time allowed, or fails to return the certification, the Department may issue an order to show cause. This section requires the order to show cause to include a statement of the grounds for the action, the alleged violations of the Act and its regulations, and notification that the equipment may be placed out of service. The order to show cause will direct the owner or operator to provide a written response within 30 days. The Department will serve an order to show cause by personal service or certified mail. Any answer filed by the owner or operator must be filed within 30 days following service of the order to show cause, must contain specific admissions or denials of the allegations set forth in the order to show cause, and must set forth the specific facts, matters of law, or regulation interpretation that the owner or operator relies upon. The answer may also contain a request for a variance or extension of time for compliance. This section requires the Department to forward all requests for variances, extension of time or appeals regarding interpretation of the regulation to the Industrial Board.

A request for variance, extension of time or an appeal will be considered a stay to the enforcement action.

At the expiration of an extension of time or other time period granted for compliance, the Department will inspect the container or facility. If the container or facility is found to violate the Act or regulations after such inspection, the Department may seal the liquefied petroleum gas container or facility.

The Department will issue a notice to discontinue operation to the owner or operator for a violation that was not corrected, either by personal service or by certified mail. This notice will require the owner or operator to discontinue the use of the container or facility within 24 hours. The equipment may be returned to service only when the violations have been corrected, the repairs have been made and the Department removes the seal. A party aggrieved by a notice of deficiency or a notice to discontinue operation may appeal that order to the Industrial Board within 30 days of the issuance of the order. Appeals from the Industrial Board Order may be filed within 30 days of that Order.

§ 13.53. Notice and Hearing.

This section provides that any actions of the Department relating to a notice of deficiency, notice to discontinue operation or suspension of an annual permit for a container under § 13.50 (relating to suspension of annual permit for a container), § 13.51 (relating to suspension of annual permit for owner or operator) or § 13.52 (relating to notice of deficiency) will be taken subject to the right of notice, hearing and adjudication under 2 Pa.C.S. (relating to administrative law and procedure). It further provides that proceedings will be conducted under 1 Pa. Code, Part II (relating to the General Rules of Administrative Practice and Procedure).

§ 13.54. Municipal preemption.

This section provides that the Department has the sole right and ability to regulate the liquefied petroleum gas industry and that no municipality or subdivision may adopt or enforce an ordinance or regulation that differs from the Act or these regulations. Municipalities may not prohibit placement of liquefied petroleum gas containers, other than to establish an absolute setback of 10 feet from a property line.

This section also provides that municipalities retain the right, in accordance with local zoning ordinances, to require a facility to locate in an approved zone and to require zoning permits and fees. Buildings located at LPG facilities must comply with municipal standards applied to primary structures.

Affected Persons

This regulation affects owners and operators of liquefied petroleum gas bulk plants, cylinder exchange cabinets, dispensing stations, distributors and industrial users. The general public is also affected, as updating the regulations related to liquefied petroleum gas to national standards will increase public safety.

Fiscal Impact

The Commonwealth will incur no additional cost under this regulation. The costs will be similar to costs now incurred by the Department's liquefied

petroleum gas inspection and inspector certification program. This regulation will not increase administrative, enforcement or legal activity.

Reporting, Recordkeeping and Paperwork Requirements

This regulation will not require the creation of new forms and reporting requirements. Current forms may be updated.

Sunset Date

A sunset date is not appropriate for this regulation. However, the Department will continue to monitor the impact and effectiveness of the regulation.

Effective Date

This proposed regulation will take effect upon publication of the final-form regulations in the *Pennsylvania Bulletin*.

Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed regulation to Jack Davenport, Bureau of Occupational and Industrial Safety, Department of Labor & Industry, 16th Floor, Labor & Industry Building, 651 Boas Street, Harrisburg, Pennsylvania, 17121 or by electronic mail to jacdavenpo@state.pa.us within 30 days of publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 9, 2009, the Department submitted a copy of this proposed rulemaking to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee and to the Independent Regulatory Review Commission (IRRC). In addition to submitting the proposed rulemaking, the Department has provided the Committees and IRRC with a copy of a detailed Regulatory Analysis

Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking to the Department within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the proposed regulations, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.



SANDI VITO
Secretary

Fiscal Note:

Annex "A"

TITLE 34. LABOR AND INDUSTRY
PART 1. DEPARTMENT OF LABOR AND INDUSTRY
CHAPTER 13. PROPANE AND LIQUEFIED PETROLEUM
GAS REGULATIONS

Subchapter A. [Liquefied Petroleum Gas] GENERAL PROVISIONS

Sec.

- 13.1. Definitions.
- 13.2. [Purpose.] Scope.
- 13.3. [Administration.] Fees.
- 13.4. [Scope.] Adoption of national standards.
- 13.5. [Penalty.] Registration and annual permits.
- 13.6. [Certificates of Registration.] Insurance.
- 13.7. [Notification to Department.] Transfer by authorized attendant.

[General Requirements]

- 13.11. [Suitability.] Reserved.
- 13.12. [Refilling.] Reserved.
- 13.13. [Odorizing.] Reserved.
- 13.14. [Safety Devices.] Reserved.
- 13.15. [Location of tanks and cylinders.] Reserved.
- 13.16. [Piping.] Reserved.
- 13.17. [Hose.] Reserved.
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Subchapter A. GENERAL PROVISIONS

§ 13.1. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Act – [The act of December 27, 1951 (P.L. 1793 No. 475) (35 P.S. §§ 1321-1329)] The act of June 19, 2002 (P.L. 421, No. 61) as amended, known as the Propane and Liquefied Petroleum Gas Act (35 P.S. §§ 1329.1-1329.19).

ASME - The American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016-5990 or its current address.

ASME Code - "The Boiler and Pressure Vessel Code," 2007 edition and any published cases and interpretations adopted by the Industrial Board under 34 Pa. Code § 3a.4 (relating to adoption of national standards).

Authorized attendant - An employee of a manufacturer, distributor or user of [liquefied petroleum gas] LPG who [has been] was trained, in a manner approved by the Department, in the proper performance of duties [with complete training recognition in the hazards involved in the handling of liquefied petroleum gas] and who [has been] was officially [authorized to perform designated duties by the employer.] recognized by the facility operator to perform those duties.

Bulk plant – [Any liquefied petroleum storage facility consisting of storage tank or tanks and related equipment used for the filling of smaller liquefied petroleum gas containers which are sold or delivered, or both, to wholesale or retail dealers or to users; the term shall include consumers of liquefied petroleum gas who use storage tanks to refill their own cylinders or tanks if the storage facilities are less than 2000-gallons water capacity.] An LPG storage facility which has the primary purpose of distribution of LPG and which has: (1) a bulk storage capacity of more than 2,000 gallons; and (2) container-filling or tank-loading facilities on the premises. The term includes a consumer of LPG that uses storage tanks to refill the consumer's own containers if the consumer's storage facility has a bulk storage capacity of less than 2,000 gallons and the storage tanks are not owned by a distributor.

Certified Employee Training Program - The "Certified Employee Training Program," available from the Propane Education and Research Council, 1140 Connecticut Ave. NW, Suite 1075, Washington, DC 20036 or its current address.

Container - A vessel such as cylinders, tanks, portable tanks, and cargo tanks used for the transporting or storing of LPG.

Cylinder – [Any container constructed and maintained in accordance with the Interstate Commerce Commission cylinder specifications for use in storing and

transporting liquefied petroleum gas.] A container constructed in accordance with U.S. Department of Transportation regulations, 49 CFR 171 through 171.26

Cylinder exchange cabinets - A lockable and ventilated metal locker or rack for the storage of LPG cylinders that prevents tampering with valves and pilferage to the cylinders.

Department – The Department of Labor and Industry of the Commonwealth.

[Dealer – Any person who sells liquefied petroleum gas to customers located in this Commonwealth except:

- (i) Merchants who sell both liquefied petroleum gas and the container thereof where such container is 2 ½ pound of water capacity or less.
- (ii) Public utilities regulated by the Public Utility Commission distributing liquefied petroleum gas by pipelines.
- (iii) Producers not selling to users directly.]

Dispensing station - Fixed equipment with an aggregate of 2,000 or less gallons of water capacity where LPG is stored and dispensed into portable containers.

Distributor - A person authorized by the Department of Labor and Industry to sell or transfer LPG. This term includes a cylinder exchange cabinet or a dispensing station.

Gallons - The term shall be measured in terms of water capacity.

GPS - Global positioning system.

[Industrial and Utility User – Any person who is the consumer of liquefied petroleum gas who maintains total storage capacity of 2,000-gallons water capacity or more.]

Industrial Board – The Industrial Board of the Department established under sections 445 and 2214 of The Administrative Code of 1929 (71 P.S. §§ 155 and 574), which hears requests for variances and extensions of time and appeals of Department interpretations regarding LPG matters.

Industrial user - A person who is the consumer of LPG and who maintains a total storage capacity at a site of more than 2,000 gallons and whose storage tanks are not registered under a distributor. This consumer may be a residential or a commercial location.

[*Industry* – Standards developed by the National Fire Protection Association for the storage and handling of liquefied petroleum gases (NFPA 58) and the installation of gas appliances and gas piping (NFPA 54).]

Liquefied petroleum gas – [Any substance in a liquefied or gaseous state which is composed predominately of any hydrocarbon such as propane, propylene, butane, normal butane or isobutane and butylene or their mixtures.] A material in liquid form that is composed predominately of any of the following hydrocarbons or their mixtures:

(1) Propane.

(2) Propylene.

(3) Normal butane or isobutane.

(4) Butylenes.

LPG - Liquefied petroleum gas.

LPG facility - Distributors, bulk plants and industrial users.

National Board - National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229 or its current address.

National Board Inspection Code - The “National Board Inspection Code,” 2007 Edition, issued by the National Board of Boiler and Pressure Vessel Inspectors.

NFPA - National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269.

NFPA 54 - The “National Fuel Gas Code,” 2006 edition, issued by the NFPA.

NFPA 58 - The “Liquefied Petroleum Gas Code,” 2008 edition, issued by the NFPA.

NPGA - National Propane Gas Association, 1150 17th Street, NW, Suite 310, Washington, DC 20036-4523 or its current address.

Person - An individual, firm, partnership, unincorporated association, corporation, [or municipality] political subdivision or authority, [and] including the Commonwealth.

Secretary - The Secretary of Labor and Industry of the Commonwealth or an authorized deputy or representative.

[*System* – An assembly of the cylinder or cylinders, tank or tanks and auxiliary equipment, with the piping connecting such parts. This term does not include any public utility distribution systems.]

Tank - A portable or stationary ASME approved vessel used [on storing] to store liquefied petroleum gas [with a water weight capacity more than 1,000 pounds avoirdupois].

Transfer - To cause LPG to pass from any pipeline, tank, container, tank truck, receptacle or storage location to a similar or different type of pipeline, tank, container, tank truck, receptacle or storage location.

§ 13.2. [Purpose.] Scope.

[(a) This subchapter sets forth rules to safeguard the lives, limbs and health of the public and of workers where liquefied petroleum gas is manufactured, handled or used.

(b) The employer, employee and user of liquefied petroleum gas shall have the responsibility of complying with the provisions of this subchapter.]

This chapter applies to:

(a) The registration and permitting of bulk plants, distributors, industrial users, dispensing stations and cylinder exchange cabinets.

(b) The storage, transfer, sale and use of LPG.

(c) The design, construction, location, operation and inspection of tanks, cylinders, equipment, piping and appliances used in the handling, storage and use of LPG.

(d) The approval of training programs for authorized attendants who transfer LPG.

§ 13.3. [Administration.] Fees.

[All industrial and utility users of liquefied petroleum gas with storage facilities in excess of 2,000 gallons water capacity and all bulk plants and dealers in liquefied petroleum gas shall comply with the registration provisions of the act of December 27, 1951 (P.L. 1793, No. 475), as amended (35 P.S. §§ 1321-1329).]

(a) The following fees apply to facility applications, plan approvals, permits and training program certifications. Fees are nonrefundable.

(1) Annual permit and registration fees:

(i) Bulk plants with the following storage capacities:

(A) 30,000 gallons or less \$ 90.00

(B) 30,001 to 90,000 gallons 135.00

(C) 90,001 gallons or more 180.00

(ii) Industrial users with the following storage capacities:

(A) 2,001-30,000 gallons \$ 45.00

(B) 30,001 to 180,000 gallons 90.00

(C) 180,001 gallons or more 180.00

(iii) Distributors, other than cylinder exchange cabinets, having the following number of customers:

(A) Less than 1,000 \$ 112.50

(B) 1,000 to 2,999 235.00

(C) 3,000 to 5,999 337.50

(D) 6,000 or more 450.00

(iv) Cylinder exchange cabinet location \$ 50.00
(per physical address)

(2) Application and plan review, including Fire Safety Analysis review, for new LPG facilities exceeding 400,000 gallons and existing LPG facilities expanded to exceed 400,000 gallons in total capacity \$ 500.00

(3) Application and plan review fee:

(i) For a facility 4,001 to 400,000 gallons in total capacity \$ 150.00

(ii) For a facility less than 4,001 gallons in total capacity \$ 50.00

(4) Duplicate permit fee \$ 25.00

(5) Authorized attendant training program approval \$ 200.00

(6) Request for Industrial Board variance, appeals and extensions of time \$ 100.00

(b) The Department will invoice bulk plant owners, industrial users and distributors annually for each location of usage. Payment is due within 30 days of invoice date.

§ 13.4. [Scope.] Adoption of national standards.

[(a) The provisions of this subchapter apply to the design, construction, transportation, handling, location, operation, and inspection of tanks, cylinders, equipment, piping, appliances, and transportation facilities utilized in the handling, transportation, and use of liquefied petroleum gas as defined in this subchapter.

(b) The provisions of §§ 13.1113.29 (relating to general requirements) apply to all classes of vessels and equipment.

(c) The provisions of §§ 13.3113.45 (relating to special requirements) apply to the particular vessels and equipment designated in each individual section, in addition to the requirements of §§ 13.1113.29.

(d) Standards as developed for the 1976 edition of the Storage and Handling of Liquefied Petroleum Gases (NFPA #58) and the 1969 edition of the Installation of Gas Appliances and Gas Piping (NFPA #54), are part of these regulations by reference and shall govern only when they are more inclusive or more stringent than the Pennsylvania Regulations for Liquefied Petroleum Gas.]

The Department adopts the following standards and any of the standards' published cases, interpretations or tentative interim amendments approved by the Industrial Board under this chapter and the Act. Other authorities referenced in these standards are adopted if the authority is not excluded in subsection (b):

(1) NFPA 54.

(2) NFPA 58.

(b) The Department will not adopt the following NFPA 58 provisions:

(1) Chapter 9 (relating to Vehicle transportation).

(2) Chapter 13 (relating to Marine shipping and receiving).

(c) The following NFPA 58 provisions which will take effect on the enumerated dates:

(1) Chapter 5, section 5.2.3 regarding the requalification of cylinders filled onsite, effective January 1, 2013.

(2) Chapter 6, section 6.25 regarding fire safety analysis for existing installations, effective January 1, 2012.

(3) Chapter 5, section 5.7.4.2(d) regarding the installation of valves for existing installations, effective January 1, 2018.

(4) Chapter 6, section 6.11 regarding the installation of internal valves for existing installations, effective January 1, 2018.

(d) The Industrial Board may also approve any NFPA 54 and 58 published cases, interpretations or tentative interim amendments as standards for use under this Act and chapter. Provisions enumerated in subsection (b) may not be approved.

§ 13.5. [Penalty.] Registration and annual permits.

[Any person who violates any of the provisions of this subchapter and any regulations of the Department, or who interferes with the Department or its duly authorized representative in the enforcement of such provisions shall be subject to summary proceedings before an alderman, magistrate, or justice of the peace, and upon conviction shall be penalized under the provisions of act of May 2, 1929 (P.L. 1513, No. 451)(35 P.S. § 1318) and section 7 of act of December 27, 1951 (P.L. 1793, No. 475)(35 P.S. § 1327).]

(a) An operator of a LPG bulk plant, a distributor and an industrial user shall annually register with the Department on a registration form provided by the Department.

(b) An applicant for registration shall submit a completed registration form, the annual fee required under § 13.3 (relating to fees) and a valid copy of an industry standard insurance certificate equal to or greater than the amount of liability insurance required under § 13.6 (relating to insurance).

(c) The Department will issue an annual permit. The permit shall be posted at the location of each bulk plant, distributor, and industrial user.

§13.6. [Certificates of registration.] Insurance.

[(a) A person shall be billed for each class of registration required by section 3.2 of the act (35 P.S. § 1323.2).

(b) Dealers shall be billed for on certificate based on the total number of customers served regardless of the number of locations used in the dealership.

(a) Bulk plant owners shall be billed for a certificate for each location of bulk plants.

(b) Industrial and utility users shall be billed for a certificate for each location of usage.

(c) Certificates shall be posted at the location of each bulk plant and industrial and utility usage and the original certificate shall be posted at the main office of dealers with photocopies of the certificate to be posted at each dealership location.]

All LPG facilities shall obtain and maintain policies of liability insurance in the following amounts:

(1) A LPG facility with a storage capacity of not more than 9,000 gallons shall maintain minimum liability coverage of \$250,000.

(2) A LPG facility with a storage capacity in excess of 9,000 gallons shall maintain minimum liability coverage of \$1 million per incident and \$2 million in the aggregate.

§13.7. [Notification to Department.] Transfer by authorized attendant and supply.

[The owner of a bulk plant shall, 15 days prior to the installation modification or removal of storage facilities, notify the Boiler Division, Bureau of Occupational and Industrial Safety, of these activities.]

Both of the following apply to LPG transfer and supply:

(1) Only authorized attendants may transfer LPG.

(2) A distributor may not supply LPG to any bulk plant, industrial user or other distributor unless the distributor has a current annual permit.

§ 13.11. [Suitability.] Reserved.

[(a) Tanks, cylinders, equipment and appliances utilized in the storage, handling, and use of liquefied petroleum gas shall be of a type and construction suitable for such purpose.]

(b) Shutoff valves and equipment, liquid or gas which may be subjected to container pressure shall be suitable for liquefied petroleum gas service and be designed for not less than 250 pounds per square inch.

(c) No connectors or fittings shall be utilized throughout liquefied petroleum gas systems unless suitable for the particular purpose used. The design and material used in all connectors and fitting shall provide strength sufficient to prevent failure within the maximum pressure to which they may be subjected in normal operation.]

§13.12. [Refilling.] Reserved.

[No person other than the owner and those authorized by the owner to do so shall fill, or refill any liquefied petroleum gas tank or cylinder for any purpose.]

§13.13. [Odorizing.] Reserved.

[(a) All liquefied petroleum gases shall be effectively odorized so as to give positive indication, by distinctive odor, of the presence of gas in case of leakage, unless this requirement is waived when no useful purpose can be gained, and upon approval by the Board.]

(b) The degree of odorization shall be at least that produced by the use of one pound of ethyl mercaptan, 1 pound of thiophane, or 1 2/5 pounds of amyl mercaptan per 10,000 alons of liquefied petroleum gas or equivalent.]

§ 13.14. [Safety devices.] Reserved.

[Safety devices shall be installed and maintained in good condition whenever the provisions of this subchapter require it.]

§13.15. [Location of tanks and cylinders.] Reserved.

[(a) Tanks and cylinders shall be located outside of buildings other than buildings especially provided and meeting industry standards for this purpose, except that cylinders may be temporarily used indoors under all of the following conditions:

- (1) If used for demonstration purposes and the cylinder has a maximum water capacity of 12 pounds.
- (2) If used with a completely self-contained gas hand torch or similar equipment, and the cylinder has a maximum water capacity of 2 ½ pounds.
- (3) When used for industrial purposes, the maximum capacity limitation may be extended up to 300 pounds.
- (4) When used as motor fuel in industrial trucks covered by industry standards.

(b) Whenever it is practicable, tanks shall be installed above ground. When installed below ground, they shall conform to all of the following requirements:

- (1) Before installation, they shall be treated with a special corrosive resisting coating, which shall consist of the following:
 - (i) Hot-dip galvanizing.
 - (ii) Two preliminary applications of red lead followed by a heavy coating of coal tar or asphalt, or other approved treatment.
- (2) During the operation of placement underground, care shall be taken to prevent damage to the coating on the tank.
- (3) Proper care shall be taken in the selection of the spot where the tank is placed so that adequate precautions can be taken to avoid future shifting and settling.
- (4) Inspection certificates shall be posted and kept readily available to Department inspectors.]

§ 13.16. [Piping.] Reserved.

[(a) As is provided by the National Fire Protection Association (NFPA 58), piping may consist of any of the following:

- (1) Seamless copper.
- (2) Brass.
- (3) Steel.

- (4) Aluminum, except that it shall not be used in exterior locations or where it is in contact with masonry, plastic walls or insulation.
- (b) Except as provided in subsection (a), piping shall consist of wrought iron, steel, brass or copper.
- (c) Piping or tubing shall be of sufficient strength to withstand mechanical handling at the required working pressure, but in no case less than 125 pounds per square inch for gas and 250 pounds per square inch for liquid.
- (d) Containers of 125 or more gallons water capacity manufactured after July 1, 1962, shall be provided with an approved device for liquid evacuation, the size of which shall be 3/4 inch National Pipe Thread minimum. A plugged opening will not satisfy this requirement.]

§ 13.17. [Hose.] Reserved.

- [(a) Hose shall be fabricated of materials which will not deteriorate through action of liquefied petroleum gas and shall be of sufficient strength to withstand mechanical handling at maximum developed pressure or excess temperatures.
- (b) Flexible hose may be used on the low pressure side of a system provided that it is of substantial construction and that connectors are designed for such use.
- (c) Hose shall be so installed that it will not be adversely affected by high temperatures from the consuming appliance.]

[General Requirements]

**Subchapter B. REQUIREMENTS FOR FACILITIES, TANKS
AND CYLINDERS**

§ 13.20. [Vessels filled at installation.] Application process and plan approval.

[Filling connections on tanks and cylinders which are filled at the installation shall be provided with effective automatic check valves.]

(a) All of the following shall submit an application to the Department before installation or modification:

- (1) An owner or operator of a LPG tank exceeding 2,000 gallons capacity.

(2) An owner or operator of a fixed location with aggregate capacity exceeding 4,000 gallons.

(3) An owner or operator of a dispensing station or a cylinder exchange cabinet location.

(b) The application shall contain all of the following:

(1) A completed registration form and proof of valid insurance required by § 13.5 (relating to registration and annual permit).

(2) The appropriate fee required by § 13.3 (relating to fees).

(3) Plans that contain all of the following information:

(i) Equipment to be installed.

(ii) Distances of equipment to buildings and property lines.

(iii) Security measures provided.

(iv) Fire protection measures provided.

(v) Vehicle protection measures provided.

(4) A fire safety analysis required by NFPA 58, Chapter 6, section 6.25.

(5) A manufacturer's data report (U1-A) for each unfired pressure vessel.

(c) A Department-provided notice of intent to install form may be submitted instead of the plans required by § 13.20(b)(3) for the following:

(1) A distributor installing or expanding a bulk plant with a capacity of less than 9,000 gallons.

(2) An industrial user with a total storage capacity of less than 9,000 gallons.

(d) The Department will inspect applicants under subsection (a) and (c) for compliance with the plans or notice of intent to install before issuance of the initial annual permit.

(e) If the inspection reveals a violation of the Act or this chapter, the Department will issue a written notice of deficiency to the owner or operator. The written notice of deficiency will contain a certification to be completed by the owner or operator certifying that the deficiencies were corrected. The Department will not issue an annual permit unless the certification is executed by the owner or operator and returned to the Department after the deficiencies are corrected.

(f) An owner or operator may not operate a LPG tank, fixed location, dispensing station or cylinder exchange cabinet until it receives an annual permit issued by the Department.

(g) A manufacturer shall register a data report (U1-A) for each unfired pressure vessel with the National Board.

§ 13.21. [Vaporizers.] LPG facilities over 400,000 gallons.

[Vaporizers shall not be installed inside of any storage tank or cylinder.]

(a) The owner or operator of a new LPG facility in excess of 400,000 gallons or an existing LPG facility expanded to exceed 400,000 gallons must submit an application to the Department which shall include all of the following:

(1) A completed registration form required by § 13.5 (relating to registration and annual permits) and a completed application required by § 13.20 (relating to application process and plan approval).

(2) Documentation and plans providing all of the following information:

- (i) Storage quantities.
- (ii) Proximity to populated areas and public ways.
- (iii) The impact of any rejection from the Department upon the LPG facility's ability to service current and anticipated consumer needs and upon the LPG facility's business investment.
- (iv) The risk to and from existing adjacent facilities.
- (v) Topography of the site.
- (vi) Access for emergency vehicle response.

- (vii) Public and private utilities.
- (viii) Requirements for receipt or shipment of products.
- (ix) Compliance with local land use ordinances.
- (x) The safety plan proposed by the LPG facility, such as emergency systems, spill containment, fire protection, fencing and lighting.

(3) Proof of notification to the municipality required in subsection (b). The Department will accept a copy of the notification and signed certified mail receipt card as proof of notification to the municipality.

(4) The appropriate fee required by § 13.3 (relating to fees).

(b) The applicant shall notify the municipality where the facility is located by certified mail that an application is being filed with the Department.

(c) The Department will publish notice of the application in the *Pennsylvania Bulletin* within 10 business days of receipt of the application. An aggrieved party may file a protest with the Department 45 days from the publication of the notice. A municipality or county may file written comment with the Department within 45 days from publication of the notice.

(d) Within 90 days of publication of the notice, the Department will issue a written determination containing the approval or disapproval of the application. The Department will send a copy of the determination by certified mail to the applicant and to all parties who filed a notice of protest or submitted written comments.

(e) The facility owner or operator may not install or operate the facility or the expanded portion of the facility until it has received an annual permit issued by the Department.

§ 13.22. [Fuel for internal combustion engines.] Underground tanks.

(a) [Intake and discharge connections on tanks as well as on cylinders, which are used to supply fuel directly to internal combustion engines, shall be labeled to

designate whether they communicate with vapor or liquid space.] Underground tanks shall be installed in accordance with NFPA 58.

(b) [A positive automatic shutoff valve or regulator shall be provided in the fuel system to prevent flow of gas to the mixer when the engine is not running.] A distributor shall keep records of all installation locations, including their location by GPS coordinates, for individual underground LPG tanks exceeding 2,000 gallons water capacity.

§ 13.23. [Regulators.] Repairs and alterations to ASME vessels.

[Pressure reducing regulators shall be connected to the shutoff valve directly or by means of a suitable flexible connection. In either case the connection shall be rigidly supported.]

All repairs and alterations to ASME vessels shall be performed in accordance with the National Board Inspection Code.

§ 13.24. [Openings.] Cylinder exchange cabinets.

[There shall be no more than two plugged openings on a tank or cylinder of 2,000 or less gallons water capacity.]

(1) A retailer or location using a cylinder exchange cabinet shall comply with section 8.4.1 of NFPA 58.

(2) The term “busy thoroughfares or sidewalks” contained in section 8.4.1.2(3) of NFPA 58 shall include sidewalks, concrete aprons and parking lots at retail establishments.

§ 13.25. [Settings.] Reserved.

[Tanks and cylinders shall be set upon firm foundations or otherwise firmly secured. Vessels shall have flexible piping connections or special fittings if a settling condition may affect the safety of the connections.]

§ 13.26. [Electrical equipment.] Reserved.

[All electrical equipment and connections shall be installed according to the provisions of Chapter 39, Subchapter B (relating to electric safety) and shall be so maintained as to provide special protection where such precautions are indicated.]

§ 13.27. [Repairs and Maintenance.] Reserved.

[(a) No repairs by welding shall be made on any pressure part of a liquefied petroleum gas system, until the system has been purged.

[(b) Repairs by welding shall be made only by a qualified welder employed by a manufacturer of equipment, or by a distributor or user authorized to do so after approval by the Department.

[(c) Tanks and cylinders shall be kept properly painted or otherwise treated to provide adequate protection against effects of weather exposure.]

§ 13.28. [Fire hazards.] Reserved.

[Readily ignitable material including weeds and long dry grass shall be removed within ten feet of any tank or cylinder, and the area maintained in a clear condition.]

§ 13.29. [Instructions.] Reserved.

[(a) Every employe whose duties involve the handling of liquefied petroleum gas, or the installation, repair, or maintenance of liquefied petroleum gas systems, shall be thoroughly instructed on the properties of liquefied petroleum gas and trained in all details of his responsibilities with respect to safe practices in the handling, transportation, and use of it. Distributors shall furnish complete instructions to employes and users on the proper care and use of systems which they install for service.

[(b) No person other than a representative of the owner or distributor of such vessel or of a recognized service agency, such as a fire department, police department, civil defense agency, or other public agency shall connect or disconnect any tank or cylinder,

[(c) Owners or distributors of tanks and cylinders shall remove such vessels from establishments within ten days of notification to do so.]

[SPECIAL REQUIREMENTS FOR TANKS]

§ 13.31. [Construction, test and inspection.] Reserved.

[(a) Liquefied petroleum gas tanks shall be designed, constructed, tested and inspected according to §§ 3.1413.145 and 3.1513.156.

(b) Inspection of above ground tanks shall be according to regular department procedure.

(c) Safety equipment and connections to underground tanks shall be annually inspected by the Department. Complete inspection of the underground tank itself shall be required at least once every 5 years. To comply with this section, a metal plate at least 60 square inches in area and of substantially the same material and finish as the tank, stamped with the number of the vessel, shall be buried adjacent to the tank and dug up at least once every 5 years. If the plate shows evidence of corrosion, the tank itself shall be completely exposed for inspection.

(d) Annual certificates of operation shall be obtained as required by the act of May 2, 1929 (P.L. 1513, No. 451) known as Boiler Regulation Law (35 P.S. §1301-1318.1).]

§ 13.32. [Location.] Reserved.

[(a) Tanks shall be located with respect to the nearest building or line of adjoining property which may be built upon according to the following table:

Water capacity per container (in gallons)	Minimum Distances		Between aboveground containers (in feet)
	underground	aboveground (in feet)	
Less than 125	10	None	None
125 -- 500	10	10	3
501 -- 2,000	25	25	3
Over 2,000	50	50	3

(b) The distance requirements described in subsection (a) may be reduced to not less than ten feet for a single container of 1,200 or less gallons water capacity if the container is at least 25 feet from another LP-Gas container of more than 125 gallons water capacity.]

§ 13.33. [Bulk storage.] Reserved.

[(a) In cases of bulk storage in heavily populated or congested areas, special care shall be taken to ascertain safe limits of tank capacity, total storage and proper distances from buildings and other areas.

(b) In industrial installations involving tanks of large capacity, where serious mutual exposures between the tank and adjacent properties prevail, the Department may require fire walls designed and constructed in accordance with good engineering practices.

(c) In the case of buildings devoted exclusively to gas manufacturing and distributing operations the distance specified in § 13.32 (relating to location) may be reduced. Tanks may not be located without regard to the safety of employes or the public.]

§ 13.34. [Support of storage tanks.] Reserved.

[(a) Storage tanks installed above ground, except for skid tanks, shall be provided with substantial masonry or noncombustible structural supports on firm masonry foundations.

(b) Horizontal tanks shall be mounted on saddles to permit expansion and contraction. Every tank shall be so supported to prevent the concentration of excessive loads on the supporting portion of the shell. Structural metal supports may be employed when they are protected against fire in an effective manner. Suitable means of preventing corrosion shall be provided on that portion of the tank in contact with the foundations or saddles.

(c) Tanks of 2,000 or less gallons water capacity may be installed with ferrous metal supports if mounted on concrete pads or footings, and if the distance from the outside bottom of the tank shell to the ground does not exceed 24 inches.

(d) Tanks with the foundations attached, that is, portable or semiportable tanks with suitable steel runners or skids and usually known in the industry as skid tanks, shall have the supports designed, installed and used in accordance with accepted practice in the industry.

(e) Skids or lugs for attachment of skids shall be firmly secured. However, skid tanks shall not be used in place of tank trucks, tank trailers or tank semitrailers for regular deliveries.]

§ 13.35 [Escape pipes.] Reserved.

[Escape pipes from safety relief valves on tanks of 2,000 or more gallons water capacity shall be provided and shall discharge into the atmosphere at least seven feet in a vertical direction from the tank and shall be unobstructed. They shall be fitted with loose raincaps at the pipe terminal. Escape pipes shall be arranged so that the discharge into the atmosphere is more than five feet from any building opening.]

§ 13.36. [Hose.] Reserved.

[Where hose is to be used for transferring liquid form one tank to another, wet hose is recommended. Such hose shall be equipped with suitable shutoff valves at the discharge end. Precautions shall be taken to prevent excessive hydrostatic pressure in the hose.]

§ 13.37. [Stamping and marking.] Reserved.

[(a) Each tank to be used for liquefied petroleum gas, hereafter constructed and installed, shall be stamped with the ASME symbol and marked as required by §3.144 (relating to marking). In addition, the water capacity of the tank shall be marked in pounds or gallons (U.S. standard), and the overall length and diameter of the vessel shall also be placed on the tank.

(b) Tanks used in storing, handling or transporting liquefied petroleum gas in industrial establishments shall be clearly marked on their outer surface with the type of liquefied petroleum gas which they contain.]

§ 13.38 [Safety equipment.] Reserved.

[(a) Safety relief valves of a type designed for use with liquefied petroleum gas shall be provided on all tanks. They shall be of a design and construction generally acceptable to good practice in the industry. They shall be set to relieve at the designated maximum working pressure of the vessel, except that for tanks built with a safety factor of five, they may be set to relieve at not more than 125% of such pressure. They shall be connected directly to the vapor space, and marked as required by § 3.144 (related to marking).

(b) Excess of back flow check valves shall be required on all tank openings except for the following:

- (1) Safety relief valve connections.
- (2) Openings which are smaller than No. 54 drill size.
- (3) Service line connections on tanks for 2,000 or less gallon capacity if they are equipped with reducing regulators.

(c) The valves described in subsections (a) and (b) shall close automatically at the rate flow of vapor or liquid as specified by the manufacturer. The connections or lines including valves, fittings, or other attachments being protected by the excess flow valve shall have a greater capacity than the rate flow of the excess flow valves. Means shall be provided to allow equalization of pressures.

(d) Check valves of suitable type shall be installed on the intake connection of every tank.

(e) Excess flow and check valves when required by the provisions of this Subchapter shall be located inside the tank, or at a point outside where the line enters the tank.

(f) All connections to tanks, when it is practicable, shall have shutoff valves of the quick-closing type. They shall be located at the tank except for the following:

- (1) Safety relief valve connections.
- (2) Liquid level gauging devices.
- (3) Plugged openings.
- (4) Pressure gauge openings.

(g) The requirements of subsection (f) of this section do not prohibit installation of a relief valve manifold assembly if the manifold and valves are so arranged that adequate relief valve capacity is always connected to the vapor space of the tank.

(h) Each tank with over 2,000 gallons water capacity shall have a suitable pressure gauge connected directly to the vessel. The dial of such gauge shall be graduated to at least 1 1/2 times the pressures at which the relieving device is set to function.

(i) Every tank, except those filled by weight, shall be equipped with a liquid level gauging device. Such gauging device shall be arranged so that the maximum liquid level is readily determinable. Gauging devices shall be designed to withstand a working pressure of at least 250 pounds per square inch.

(j) An effective relief valve shall be installed on the low pressure side of the regulator, and it may be an integral part of the regulator.]

[SPECIAL REQUIREMENTS FOR CYLINDERS]
Subchapter C. TRAINING PROGRAMS

§ 13.40. Training programs for authorized attendants.

(a) An individual shall satisfactorily complete a Department-approved training program to become an authorized attendant to transfer LPG.

(b) All programs shall include training on all of the following:

(1) Physical properties and combustion characteristics of propane.

(2) Propane industry standards, safety codes and regulations.

(3) Basic parts of propane tanks, cylinders and bulk storage installations.

(4) Proper use of safety and protective equipment.

(5) Maintenance of safe working environment.

(c) Programs for attendants who will deliver LPG shall include all of the following training in addition to the training enumerated in subsection (b):

(1) Proper inspection, maintenance and operation of bulk propane delivery vehicles.

(2) Proper inspection and filling of propane storage containers.

(3) Proper delivery of propane, including exchange and filling of LPG containers.

(d) Programs for attendants who are employed in bulk plant operations shall include all of the following training in addition to the training enumerated in subsection (b):

(1) Identification and installation of valves in propane storage containers.

(2) Identification and installation of gauges in propane storage containers.

(3) Safe removal of propane from tanks and cylinders at the plant and at the container site.

(4) Inspection, maintenance and filling of propane tanks and cylinders at the plant and at the container site.

(5) Proper unloading of propane transports and rail cars.

§13.41. [Design, construction, test and inspection.] Training program approval.

(a) [Cylinders shall be designed, constructed, tested and inspected in accordance with the requirements of nationally accepted standards after approval of such standards by the Board.] The Department will approve LPG facility operator-provided training programs. A LPG facility operator that has individuals who transfer LPG shall submit a completed application for training program approval to the Department with a detailed description of its training program for authorized attendants and the appropriate fee under § 13.3 (relating to fees).

(b) [To assist in the accomplishment of this requirement all distributors of liquefied petroleum gas shall keep accurate record of all installations at point of distribution, such records to be readily available to inspectors of the Department.] The Department will issue a program approval to each approved training program or inform the LPG facility operator in writing of its reasons for rejecting a training program.

(c) [When LP-Gas and one or more other cylinder gases are stored or used side by side, labeling may be necessary to identify cylinder content. Such labeling shall be in compliance with American Standard ASA Z48.1-1954, Method of Marking Portable Compressed Gas Containers to Identify the Material Stored.] A LPG facility operator shall notify the Department in writing of any changes in an approved training program.

(d) Instead of developing and submitting a training program for authorized attendants, a LPG facility operator may utilize the Propane Education and Research Council training programs. The facility shall notify the Department in writing that it is using a Propane Education and Research Council training program.

(e) A LPG facility operator shall maintain training records for an authorized attendant as long as the authorized attendant is employed by the facility. The records shall contain all of the following information:

- (1) Date of training.
- (2) Name of authorized attendant.
- (3) Name of course.
- (4) Name of trainer or supervisor.

(f) The Department may revoke approval of any training program that does not comply with § 13.40 (relating to training programs for authorized attendants) or this

section. Actions will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

§13.42. [Location.] Reserved.

[(a) Cylinders shall not be installed within a horizontal distance of 5 feet when possible, but in no case less than 3 feet of any building opening located below outlet level.

(b) Cylinders shall not be installed one above the other when placed in service.]

§ 13.43. [Safety devices.] Reserved.

[(a) All cylinders of liquefied petroleum gas shall be equipped with effective safety relief valves and other safety devices designed to prevent accidents. Cylinders which are refilled at the installation point shall be provided with check valves. Fusible plugs may be accepted on cylinders constructed prior to the effective date of the provisions of this subchapter, but shall not be acceptable in lieu of safety devices on new construction.

(b) Valve protecting caps or other means of protection against mechanical injury shall be provided, and regulators shall be rigidly supported.

(c) Any present and future installations of shutoff valves on cylinders shall be plainly marked to indicate the opening and closing directions of such valves.]

§ 13.44. [Treatment after damage.] Reserved.

[Cylinders which have been exposed to fire or otherwise damaged shall not be used again until they have been returned to a manufacturer for repair and retest.]

§ 13.45. [Requalification.] Reserved.

[Cylinders shall be requalified for services at least within ten years of their manufacture and every five years after that. Such requalification shall consist at least of thorough exterior examination of the vessel, fittings and connections. Requalification may be made by the owner or manufacturer and proper records shall be kept of the results of such tests and made available to the Department.]

**[VAPORIZERS]
Subchapter D. ADMINISTRATION**

§ 13.50. Suspension of annual permit for container.

The Department will suspend the annual permit for a LPG container and seal a LPG container that is unsafe or where there are violations of this Act or chapter. A person, firm, partnership, or corporation operating a LPG container with a suspended annual permit or system containing a LPG container with a suspended annual permit is subject to the penalties of section 17 of the Act. (35 P.S. § 1329.17).

§ 13.51. [Direct and indirect fired vaporizers.] Suspension of annual permit for an owner or operator.

(a) [Direct fired vaporizers shall be constructed, marked, installed, and inspected as required by §§ 3.713.76, 3.813.87 and 3.1313.136.] The Department may suspend an owner's or operator's annual permit for any of the following reasons:

(1) Failure to pay the required registration fee in § 13.3 (relating to fees).

(2) Violation of the Act or this chapter.

[(b) Indirect fired vaporizers shall be constructed, marked, installed and inspected according to the requirements of §§ 3.1413.145 and 3.1513.156 except vaporizers having an inside diameter of six inches or less. Such vessels shall be designed and constructed as to safely sustain a working pressure of not less than 250 pounds per square inch. These vessels need not be permanently marked except for the nature of the manufacturer and the designed pressure.

(c) The application of direct heat to tanks and cylinders containing liquefied petroleum gas is prohibited.]

§ 13.52. [Location.] Notice of deficiency.

(a) [Vaporizers shall be located with respect to adjacent tanks, cylinders and buildings in accordance with safe practices developed in the industry.] The Department will use the following procedures to suspend an annual permit or for alleged violations of the Act or this chapter:

(1) The Department will issue a written notice of deficiency to the owner or operator of the container or facility. The notice shall contain a description of the deficiency, an order requiring repairs and correction of the deficiency and a compliance date. The notice will contain a certification to be completed by the owner or operator certifying that the required repairs were completed and the deficiency was corrected.

(2) The owner or operator shall execute the certification and submit it to the Department immediately after the required repairs are completed and the deficiency is corrected.

(3) If the owner or operator does not correct the deficiency within the period of time allowed in the notice of deficiency or fails to return the certification, the Department may issue an order to show cause under 1 Pa. Code § 35.14 (relating to order to show cause).

(i) The order to show cause will contain a statement of the grounds for the action, the alleged violations of the Act and this regulation and notification that the container or facility may be placed out of service. The order to show cause will contain notification that the owner or operator shall submit a written answer within 30 days. The Department will serve the order to show cause upon the owner or operator.

(ii) The owner or operator may file a written answer to the order to show cause with the Department within 30 days following service of the order to show cause under 1 Pa. Code § 35.37. The answer shall contain specific admissions or denials of the allegations contained in the order to show cause and set forth the specific facts, matters of law or regulation interpretation relied upon by the owner or operator. The answer may contain a request for a variance, an extension of time for compliance or an appeal. The Department will forward all requests for variances, extensions of time or appeals regarding interpretations of the regulation to the Industrial Board.

(b) [The use of vaporizers in buildings where persons are employed, other than attendants, is prohibited except in buildings used exclusively in gas manufacturing and distribution.] The Department will consider the request for variance, extension of time, or appeal as a stay to an enforcement action.

(c) [Where vaporizers are installed in buildings, rooms, housings, sheds or lean-tos used exclusively for gas manufacturing or distribution, such structures shall be of noncombustible construction or equivalent and well ventilated near the floor line and roof.] The Department will inspect the container or facility at the expiration of an extension of time or other time period granted for compliance under this section. If the container or facility violates the Act or regulations following inspection, the Department may seal the container or facility.

(d) [Pressure regulating and pressure reducing equipment, if located close to a direct fired vaporizers, shall be separated from the open flame by a substantially airtight noncombustible partition or partitions.] The Department will issue an order to discontinue operation to the owner or operator for a violation that was not corrected. The Department shall serve the order upon the owner or operator by certified mail or personal service. The order to discontinue operation will require the owner or operator to discontinue the use of the container or facility within 24 hours.

(e) After the container or facility is sealed, it may not be returned to service until the violations have been corrected, the repairs have been made and the Department removes the seal.

(f) A party aggrieved by a notice of deficiency or a notice to discontinue operation may appeal the order to the Industrial Board within 30 days of the issuance of the order. Appeals from the Industrial Board's Order may be filed with the Commonwealth Court within 30 days of the date of the order.

(g) This section supplements 1 Pa. Code §§ 35.14 and 35.37.

§ 13.53 [Drain protection.] Notice and hearing.

[Drains to sewers or sump pits from vaporizers shall be adequately protected.] Actions of the Department relating to notice of deficiency, a notice to discontinue operation or suspension of annual permit under § 13.50 (relating to suspension of annual permit for container), § 13.51 (relating to suspension of annual permit for an owner or operator) and § 13.52 (relating to notice of deficiency) will be taken subject to the right of notice, hearing and adjudication under 2 Pa.C.S. (relating to administrative law and procedure) Proceedings shall be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

§ 13.54. [Liquid discharge.] Municipal Preemption.

[Vaporizers shall be provided with suitable automatic means to prevent liquid passing from the vaporizers to the gas discharge piping.] The Department has the sole right and ability to regulate any and all matters related to the operation of the LPG industry under section 15 of the Act (35 P.S. § 1329.15).

(a) No municipality or other political subdivision may adopt or enforce an ordinance or regulation which differs from or conflicts in whole or in part with the provisions of the Act or this chapter regarding permits, licensing standards, fees, construction, installation, maintenance, operation, inspection, location or placement of LPG containers or LPG facilities or any other matters related to this industry within this Commonwealth.

(b) A municipality may not prohibit placement of any LPG container in any existing yard setback area except to establish an absolute setback of 10 feet from a residential property line.

(c) A municipality may retain the right, under local zoning ordinances, to require an LPG facility to locate within approved residential, industrial commercial or other

zones and to require an LPG facility to obtain zoning permits, pay zoning fees and undergo inspections related to the zoning of the LPG facility. Any building at an LPG facility shall comply with the municipal standards applied to primary structures.

§13.55. [Coils.] Reserved.

[Heating or cooling coils shall not be installed inside any storage tank nor shall heat be directly applied to any tank.]

§13.56. [Capacities.] Reserved.

[The rated capacities of direct fired vaporizers shall be in proper relation to the tanks or cylinders in the system.]

§ 13.57. [Cast metal.] Reserved.

[Vaporizers of one or more gallons volumetric capacity shall not be constructed of cast metal. Where cast metal is used for vessels under this size, construction shall be according to Chapter 3 (relating to boilers and unfired pressure vessels).]

§ 13.58. [Safety equipment.] Reserved.

[(a) Safety relief valves shall be provided on all vaporizers designed for liquefied petroleum gas. They shall be of a design and construction generally acceptable to good practice in the industry and shall be set to relieve at the designed working pressure of the vaporizers. Such valves shall be directly connected to the vaporizers and marked with the name or identifying trademark of the manufacturer, the pipe size valve inlet and the pressure at which the valve is set to blow.

(b) Fusible plugs shall not be installed on vaporizers.

(c) Gas fired heating systems supplying heat for vaporization purposes shall be equipped with automatic safety devices to shut off flow of gas to main burners and pilot in case of failures of the pilot light.]

[LOADING, UNLOADING AND TRANSPORTATION]

§ 13.61. [Tank cars.] Reserved.

[(a) The track of tank car sidings shall be approximately level and the wheels of cars shall be blocked at both ends while loading or unloading liquefied petroleum gas.

(b) A sign shall be installed at the active end or ends of the siding while the tank car is connected for loading or unloading. Such sign shall be of such standard size and form as used in the industry.

(c) An authorized attendant shall be present at all times while tank cars and trucks are being loaded or unloaded.]

§ 13.62. [Safety equipment.] Reserved.

[(a) The discharge from safety relief valves shall be vented away from the tank upward and unobstructed to the open air to prevent any impingement of escaping gas upon the tank. Size of discharge lines from safety relief valves shall not be smaller than the nominal size of the relief valve outlet connection. Suitable provision shall be made for draining condensate which may accumulate in the discharge pipe.

(b) Any portion of piping between tank and pump inlet or any wet hose which at any time may be closed at each end shall be provided with a relief valve to prevent excessive pressure from developing in the hose.

(c) If tank filling connections are located at a distance of more than 20 feet from a car or truck the pump discharge shall be provided with an excess flow valve.]

§ 13.63. [Pumps and compressors.] Reserved.

[(a) Pumps and compressors shall be properly protected and mounted. They may be driven directly or by truck motor power take-off. The pumps, except constant speed centrifugal pumps, shall be equipped with suitable pressure actuated bypass valves permitting flow from pump discharge to pump suction or back to tank when the pump discharge pressure rises above a predetermined point.

(b) Pump discharge from positive displacement pumps shall be equipped with a spring loaded safety valve of nonleaking type, set at a pressure not to exceed 35% higher than the predetermined setting of the bypass valve.]

§ 13.64. [Mounting of tanks on trucks.] Reserved.

[(a) A suitable stop shall be mounted on the truck, semitrailer or trailer or on the tank in such a way that the tank cannot be dislodged from its mounting when the vehicle comes to a sudden stop. Back slippage shall also be prevented by proper methods.

(b) A suitable hold-down device shall be provided which will anchor the tank at one or more places on each side of the tank to the truck, semitrailer or trailer frame to minimize loosening due to vibration.]

§ 13.65. [Electrical equipment and lighting.] Reserved.

[Tank trucks, trailers and semitrailers shall not be equipped with an artificial light other than electricity. Lighting circuits shall have suitable overload protection such as fuses or automatic circuit breakers. Wiring shall have sufficient carrying capacity and mechanical strength and be suitably secured, insulated and protected against physical damage.]

§ 13.66. [Fire protection.] Reserved.

[(a) Each cargo truck or tractor shall be provided with at least one approved portable fire extinguisher having at least a 12-B, C rating, or when more than one is provided, each cargo truck or tractor shall have at least one extinguisher having an 8-B, C rating. Ratings shall be in accordance with the Standard for Installation, Maintenance and Use of Portable Fire Extinguishers (NFPA No. 10).

(b) Truck drivers and their helpers shall not smoke or allow smoking around the truck.]

§ 13.67. [Skid tanks.] Reserved.

[Skid tanks shall not be used in place of tank trucks, tank trailers or semitrailers for regular deliveries.]

§ 13.68. [Motor fuel.] Reserved.

[(a) Fuel may be used from the cargo tanks of a truck while in transit but not from cargo tanks on trailers or semi-trailers.

(b) The use of fuel from the cargo tank to operate stationary engines is permitted if the wheels are securely blocked.

(c) Cylinders from which gas is to be withdrawn only in the gaseous phase shall be installed and equipped with suitable valves and connections to prevent the accidental withdrawal of liquid.

(d) Piping and equipment shall be installed, braced and supported so as to reduce to a minimum the possibility of strain or wear. Piping shall not be installed in proximity to sources of extreme heat.

(e) No single fuel tank or cylinder used exclusively for supplying fuel to the motor shall exceed 300 gallons water capacity.]

**[BULK FILLING PLANTS, INDUSTRIAL ESTABLISHMENTS, AND
UTILITIES]**

§ 13.71. [Location.] Reserved.

[(a) The cylinder filling rooms shall be located far from storage tanks and such distance shall never be less than 10 feet from them.

(b) Tank truck filling station outlets shall be located far from pumps and compressors and in such distance shall not be less than 10 feet from them.

(c) If pumps and compressors are housed in one or more separate buildings they shall also be located far from storage tanks and all sources of ignition. However, in no case shall this distance be less than 10 feet from tanks and 25 feet from sources of ignition.

(d) No boiler or any source of ignition shall be located in a building used for filling purposes except when permitted by the Department.]

§ 13.72. [Storage area.] Reserved.

[Tank storage areas shall be fenced with a 6 foot high industrial type fence or equivalent protection where required by the Department. In such cases at least two means of access to the enclosures shall be provided.]

§ 13.73. [Lighting.] Reserved.

[Adequate lighting shall be provided for illumination purposes as set forth in Chapter 27 (relating to lighting). Explosion-proof equipment shall be used where indicated.]

§ 13.74. [Fire protection.] Reserved.

[(a) Adequate fire protection shall be available at all times and suitable means of access to storage areas shall be provided for firefighting equipment. At bulk filling plants a minimum of a 12 B, C rating portable fire extinguisher shall be provided.

(b) Adequate fire protection shall be available at all times and suitable means of access to storage areas shall be provided for fire fighting equipment.]

[STORAGE OF DISCONNECTED RESERVED CYLINDERS]

§ 13.81. [Premises of users.] Reserved.

[(a) Cylinders on the premises of users which are not connected for use shall be stored according to the following requirements:

(1) When stored in buildings, they shall be enclosed in rooms of fire-resistive construction separated from any other occupancy or storage. Such rooms shall not be artificially heated beyond a temperature of 60° F nor shall they be in locations where they are liable to excessive heat exposure from any source. They shall also be ventilated to the outer air.

(2) When stored in the open air, they shall be protected against the effects of weather and their location shall be a safe distance from any area accessible to the public.

(b) Valves shall be closed on all full or empty cylinders.]

§ 13.82. [Resale or distribution.] Reserved.

[Cylinders destined for resale or distribution shall be stored on the premises of such owner or distributor in accordance with the following requirements:

(1) When stored in buildings they shall be enclosed in fire-resistive rooms separated from any other occupancy or storage. Such rooms shall not be artificially heated beyond a temperature of 60° F or in locations where they are liable to excessive heat exposure from any source. Such room or compartment shall not be below ground level and shall have no openings communicating with other occupancies. The space below the floor shall be of solid fill or be properly ventilated to the open air. The building or compartment or room shall be vented top and bottom to the outside only and the outlet of such vents shall not be within five feet of any other building opening. Such storage of containers shall not be adjacent to any place of public assembly.

(2) When stored in the open air, they shall be protected against the effects of weather and their location shall be a safe distance from any area accessible to the public.

(3) Valves shall be closed on all empty cylinders.

(4) Readily combustible material shall not be piled within 10 feet of cylinders in storage. A warning sign to keep open flames and fire away shall be conspicuously posted.]

[MOBILE LIVING AND OTHER MOBILE UNITS]

§ 13.91. [Location.] Reserved.

[(a) Cylinders, control valves, and regulating equipment enclosed in a housing and comprising a complete system shall be mounted on the chassis of the vehicle as close to the hitch as practicable.]

(b) No cylinders shall be installed, transported or stored, even temporarily, inside of any mobile living unit or other mobile unit used for sales, service or display purposes.]

§ 13.92. [Valves.] Reserved.

[Valves in the assembly of a two-cylinder system shall be arranged so that replacement of cylinders can be made without shutting off the flow of gas to the appliances.]

§ 13.93. [Systems.] Reserved.

[(a) Systems shall be of a vapor withdrawal type.]

(b) Systems supplying fuel to appliances in a liquid or liquid-gaseous phase are prohibited.]

§ 13.94. [Piping and equipment.] Reserved.

[(a) Piping and equipment shall be installed, braced and supported so as to reduce to a minimum the possibility of strain or wear. Piping shall not be installed in proximity to sources of extreme heat.]

(b) The gas line shall be installed to enter the vehicle through rubber grommets or equivalent in the floor directly beneath the appliance which it serves. When a branch line is required, the tee connection shall be in the main gas line and located under the vehicle.]

§ 13.95. [Gas fired heaters.] Reserved.

[Gas fired space heaters and water heaters shall be of the full vented type, vented to the outside of the vehicle. Air for combustion shall come from the outside of the trailer. Each such appliance shall be equipped with a device designed to shut off the supply of gas to the main burner and to the pilot in the event the pilot flame is extinguished.]

§ 13.96. [Filing of cylinders.] Reserved.

[(a) Cylinders shall be filled according to §§ 13.11--13.29 (relating to general requirements) and at a properly equipped cylinder filling plant or tank truck which complies with all requirements of this subchapter. Such filling plant or tank truck may be located in a trailer camp provided that that the entire filling operation, including the cylinder, is located not less than 50 feet from the nearest trailer or building and not less than 25 feet from any public street or highway. Such filling plant shall be enclosed by a 6 foot high industrial type fence or otherwise protected from tampering or form physical damage. Access to the enclosed area shall be kept locked when unattended.

(b) The cylinder-filling operation shall only be performed by qualified personnel and only when adequate safe lighting is provided.]

[INSTALLATION]

§ 13.101. [Fuel engine generators for emergency lighting.] Reserved.

[(a) Cylinders shall be installed above grade with an outlet at least 5 feet away from any building opening which is below the level of such outlet.

(b) A relief valve shall be installed on the low pressure side of the primary regulator adjusted to discharge into the atmosphere at a pressure less than the maximum allowable pressure for the engine regulator. Such discharge outlet shall be located not less than 5 feet horizontally from any opening into the building which is below such discharge.

(c) A solenoid operated valve shall be connected in the fuel line to the engine between the primary regulator and the engine regulator with the operating coil connected so that the valve will open automatically when the engine is in operation and be closed at all other times.

(d) The fuel line shall be of sufficient size to provide adequate fuel at satisfactory pressure to run the engine generator at rated connected load.

(e) An adequate fuel supply to operate the engine generator at rated load for 1 1/2 hours shall always be maintained. A gauge to indicate fuel level shall be provided.

(f) Cylinders or tanks shall be set on a firm foundation and in the case of school or other installations as deemed necessary by the Department shall be enclosed by a fence with locked gate to prevent unauthorized persons from tampering with the cylinders, tanks, regulators and other similar equipment.

(g) Fuel and fuel cylinder or tank for emergency lighting application shall be used for no other purpose.]

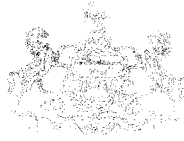
§ 13.102. [Compliance.] Reserved.

[All installations shall comply with NFPA #54 or NFPA #58.]

[HEATERS]

§ 13.111. [Heaters in drive-in theatres.] Reserved.

[The placing of heaters, fueled by liquefied petroleum gas, on or in cars occupying space in drive-in theatres is prohibited. The owners or operators of such theatres shall be held responsible for compliance with the requirement of this section.]



COMMONWEALTH OF PENNSYLVANIA

July 9, 2009

The Honorable Arthur Coccodrilli
Chairman, Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

**Re: Proposed Rulemaking
Labor & Industry
Propane and Liquefied Petroleum Gas 12-76**

Dear Chairman Coccodrilli:

Enclosed is a regulatory package consisting of a face sheet, preamble, annex and regulatory analysis form prepared by the Department of Labor and Industry for this proposed regulation. This regulation will update Pennsylvania's regulations for propane and liquefied petroleum to conform with national standards for technology and safety for propane and liquefied petroleum.

Please feel free to contact Kelly K. Smith, Assistant Counsel (Telephone: 717-787-4186/Fax: 717-787-1303) if you have any questions. The Department's staff will provide your staff with any assistance needed to facilitate a thorough review of this proposed regulation.

Sincerely,


Sandi Vito
Secretary

Enclosures

cc: Jane Pomerantz, Chief Counsel
Robert V. O'Brien, Executive Deputy Secretary
Neil E. Cashman, Jr., Senior Advisor for External Affairs
Daniel Ruzansky, Director of Legislative and Public Affairs

OFFICE OF THE SECRETARY | Department of Labor & Industry | 651 Boas Street |
Room 1700 | Harrisburg, PA 17121 | 717.787.3756 | www.dli.state.pa.us

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Equal Opportunity Employer/Program*

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 12-76
 SUBJECT: Propane and Liquefied Petroleum Gas
 AGENCY: DEPARTMENT OF LABOR & INDUSTRY

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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 2009 JUL -9 PM 2:16
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
7/9/09	<i>Margaret Elliott</i>	HOUSE COMMITTEE ON LABOR RELATIONS
7/9/09	<i>Joseph Morac</i>	MAJORITY CHAIRMAN <u>Robert E. Belfanti, Jr.</u>
7/9/09	<i>Emile Restagno</i>	SENATE COMMITTEE ON LABOR & INDUSTRY
7/9/09	<i>Sherry Hess</i>	MAJORITY CHAIRMAN <u>John R. Gardner</u>
7/9/09	<i>Kathy Coops</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
7/9/09	<i>n. Lathrop</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)