



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman Wayne Christian
Commissioner Christi Craddick
Commissioner Ryan Sitton

FROM: Haley Cochran, Attorney *HPC*
Office of General Counsel

THROUGH: Alexander C. Schoch, General Counsel

DATE: September 24, 2019

SUBJECT: Proposed Amendments to Chapter 9, relating to
LP-Gas Safety Rules.

October 1, 2019		
Approved	Denied	Abstain
<i>We</i> <i>CC</i> <i>RD</i>		

Attached is Staff's recommendation to amend 16 Texas Administrative Code Chapter 9. The amendments, new rules and repeal are proposed to update and clarify the Commission's liquified petroleum gas (LP-gas) rules. Amendments are also proposed to implement changes from the 86th Legislative Session. Finally, proposed amendments reflect changes made to the National Fire Protection Association (NFPA) standards since Chapter 9 was last amended.

Staff requests the Commission's approval to publish the proposed amendments in the *Texas Register* for public comment. If approved at conference on October 1st, the proposal should appear in the October 18th issue of the *Texas Register*. The proposal and an online comment form would also be made available on the Commission's website by October 2nd, giving interested persons more than two additional weeks to review and submit comments to the Commission.

cc: Wei Wang, Executive Director
Kari French, Director, Oversight and Safety Division
April Richardson, Director, Alternative Fuels Safety

1 The Railroad Commission of Texas (Commission) proposes amendments to the following rules in
2 Subchapter A, General Requirements: §§9.1-9.18, relating to Application of Rules, Severability, and
3 Retroactivity; Definitions; LP-Gas [~~Report~~] Forms; Records [~~and Enforcement~~]; Effect of Safety
4 Violations; License Categories, Container Manufacturer Registration, [Licenses] and Fees; Applications
5 for Licenses, Manufacturer Registrations, and Renewals [Application for License and License Renewal
6 Requirements]; Requirements and Application for a New Certificate; Requirements for Certificate
7 Holder Renewal; Rules Examination; Transfer of Employees [Previously Certified Individuals]; Trainees;
8 General Installers and Repairman Exemption; Military Fee Exemption; Penalty Guidelines for LP-Gas
9 Safety Violations; Hearings for Denial, Suspension, or Revocation of Licenses, Manufacturer
10 Registrations, or Certificates; Designation and Responsibilities of Company Representatives and
11 Operations Supervisors; and Reciprocal Examination Agreements with Other States; §§9.21 and 9.22,
12 relating to Franchise Tax Certification and Assumed Name Certificates; and Changes in Ownership, Form
13 of Dealership, or Name of Dealership; §§9.26-9.28 relating to Insurance and Self-Insurance
14 Requirements; Application for an Exception to a Safety Rule; and Reasonable Safety Provisions; §§9.35-
15 9.38 relating to Written Procedure for LP-Gas Leaks; Report of LP-Gas Incident/Accident; Termination
16 of LP-Gas Service; and Reporting Unsafe LP-Gas Activities; §9.41 relating to Testing of LP-Gas Systems
17 in School Facilities; §§9.51 and 9.52, relating to General Requirements for LP-Gas Training and
18 Continuing Education; and Training and Continuing Education [Courses]; and §9.54 relating to
19 Commission-Approved Outside Instructors.

20 In Subchapter B, LP-Gas Installations, Containers, Appurtenances, and Equipment Requirements,
21 the Commission proposes amendments to §§9.101-9.103, relating to Filings Required for Stationary LP-
22 Gas Installations; Notice of Stationary LP-Gas Installations; and Objections to Proposed Stationary LP-
23 Gas Installations; amendments to §§9.107-9.110, relating to Hearings on Stationary LP-Gas Installations;
24 Interim Approval Order for Stationary LP-Gas Installations; Physical Inspection of Stationary LP-Gas
25 Installations; and Emergency Use of Proposed Stationary LP-Gas Installations; amendments to §§9.113-
26 9.116, relating to Installation and Maintenance; Odorizing and Reports; Examination and Testing of
27 Containers; and Container Corrosion Protection System; §9.126 relating to Appurtenances and
28 Equipment; §§9.129-9.132 relating to Manufacturer's Nameplate and Markings on ASME Containers;
29 Commission Identification Nameplates; 200 PSIG Working Pressure Stationary Vessels; and Sales to
30 Unlicensed Individuals; §§9.134-9.137 relating to Connecting Container to Piping; Unsafe or Unapproved
31 Containers, Cylinders, or Piping; Filling of DOT Containers; and Inspection of Cylinders at Each Filling;

1 §§9.140-9.143 relating to System [~~Uniform~~] Protection Requirements [~~Standards~~]; Uniform Safety
2 Requirements; LP-Gas Container Storage and Installation Requirements; and Piping and Valve
3 [~~Bulkhead, Internal Valve, API 607 Ball Valve, and ESV~~] Protection for Stationary LP-Gas Installations
4 with Individual or Aggregate Water Capacities of 4,001 Gallons or More.

5 In Subchapter C, Vehicles [~~and Vehicle Dispensers~~], the Commission proposes amendments to
6 §§9.201-9.204 relating to Applicability; Registration and Transfer of LP-Gas Transports or Container
7 Delivery Units; School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle
8 Installations and Inspections; and Maintenance of Vehicles; §9.206 relating to Vehicle Identification
9 Labels; §9.208 relating to Testing Requirements; and §§9.211 and 9.212 relating to Markings; and
10 Manifests.

11 In Subchapter D, Adoption by Reference of NFPA 54 (National Fuel Gas Code), the Commission
12 proposes amendments to §§9.301-9.303 relating to Adoption by Reference of NFPA 54; Clarification of
13 Certain Terms Used in NFPA 54; and Exclusion of NFPA 54, §10.28 [~~§10.29~~]; new §9.304 relating to
14 Unvented Appliances; amendments to §§9.306-9.308 relating to Room Heaters in Public Buildings;
15 Identification of Converted Appliances; and Installation [~~Identification~~] of Piping [~~Installation~~]; §9.311
16 relating to Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors
17 and Piping Support; and §9.313 relating to Sections in NFPA 54 Adopted with Additional Requirements
18 or Not Adopted. The Commission also proposes the repeal of §9.312, relating to Certification
19 Requirements for Joining Methods.

20 In Subchapter E, Adoption by Reference of NFPA 58 (LP-Gas Code), the Commission proposes
21 amendments to §§9.401 and 9.403, relating to Adoption by Reference of NFPA 58; and Sections in NFPA
22 58 Not Adopted by Reference, and Adopted with Changes or Additional Requirements.

23 The Commission proposes the amendments, new rules and repeal to update and clarify the
24 Commission's liquified petroleum gas (LP-gas) rules. Amendments are also proposed to implement
25 changes from the 86th Legislative Session. House Bill 2714 removed the requirement that manufacturers
26 of LP-gas containers obtain a license from the Commission and instead requires registration with the
27 Commission. Proposed amendments to reflect this statutory change are found in §§9.2, 9.4-9.7, 9.15,
28 9.16, 9.21, 9.22, and 9.26. Operators will not be required to comply with changes directly related to
29 manufacturer registrations until approximately March 1, 2020 to allow Commission programming efforts
30 to be completed. Upon adoption, the Commission will specify the effective date relating to requirements
31 for manufacturer registration.

1 Proposed amendments also reflect changes made to the National Fire Protection Association
2 (NFPA) standards since Chapter 9 was last amended. Amendments proposed to reflect NFPA updates are
3 found in §§9.1, 9.7, 9.8, 9.35, 9.51, 9.101, 9.113, 9.116, 9.129, 9.131, 9.135, 9.136, 9.137, 9.140, 9.141,
4 9.142, 9.143, 9.206, 9.211, 9.301, 9.302, 9.303, 9.306, 9.307, 9.308, 9.311, 9.313, 9.401, and 9.403. The
5 repeal of §9.312 is also proposed to reflect NFPA changes.

6 The remaining amendments are non-substantive and are proposed to clarify existing language,
7 correct outdated language such as incorrect division and department names, update references to other
8 Commission rules, and ensure language throughout Chapter 9 is consistent. Clarifying changes include
9 amendments to improve readability such as removing repetitive language, adding internal cross
10 references, and including language from a referenced section (e.g., a fee amount) to give the reader better
11 access to applicable requirements.

12 Clarifying amendments include, but are not limited to, amendments in §§9.2, 9.3, 9.5-9.11, 9.13,
13 9.17, 9.26, 9.51, 9.52, 9.54, 9.101, 9.109, 9.126, 9.132, 9.202, and 9.304. A brief summary of each of
14 these clarifications is included below.

15 Proposed amendments to §9.2 remove definitions of terms that no longer appear in Chapter 9 or
16 are only used within one section and, therefore, do not need to be defined. The proposed amendments add
17 definitions of “registered manufacturer” and “service station,” as those terms are now used throughout the
18 chapter. The proposed amendments also clarify several existing definitions.

19 Proposed amendments in §9.3 remove the list of official forms from the rule language to ensure
20 consistency with other chapters. All Commission forms are now located on the Commission’s website.
21 The proposed amendments also specify the form amendment and adoption process, which is consistent
22 with forms referenced in other Commission chapters.

23 Proposed amendments in §9.5 include changes to implement the registration requirement from
24 House Bill 2714. “Manufacturer registration” is included alongside references to applications for license
25 and exemptions. However, the amendments also condense the list of potential applicants and use
26 “applicant” when possible to encompass all types of people seeking Commission authorization to conduct
27 LP-gas related activities. In addition, the proposed amendments clarify when certain violations of a
28 person who holds a position of ownership or control in the applicant will be attributed to an applicant.
29 The intent of this provision is the same; the proposed amendments merely remove unnecessary language
30 and reorganize the provision to make it more straightforward.

31 Amendments proposed in §9.6 update license categories to include licenses currently offered by

1 the Commission, including Categories A1 and A2. The proposed amendments also clarify the Category D
2 and Category I licenses. For example, the proposed amendments remove language related to the service
3 and repair of an LP-gas appliance not required to be vented to the atmosphere. This language was moved
4 to proposed new §9.304, relating to Unvented Appliances, to reduce confusion. Finally, amendments
5 proposed to §9.6 implement House Bill 2714. These provisions remove language related to manufacture
6 and fabrication from existing license categories and add new subsection (d) which states that a container
7 manufacturer registration authorizes the manufacture, assembly, repair, testing and sale of LP-gas
8 containers. The original registration fee is \$1,000; the renewal fee is \$600.

9 Proposed amendments to §9.7 generally clarify license requirements and reorganize the section to
10 group related requirements together and remove repetitive language that is contained within other rules.
11 An amendment to subsection (a) is proposed to reflect NFPA updates. Proposed new subsection (h)
12 contains the requirements for obtaining a registration authorizing the manufacture of containers. Proposed
13 subsection (i) details the steps the Alternative Fuels Safety Department (AFS) follows to review and
14 approve license and registration applications. Finally, amendments proposed in §9.7 add “registered
15 manufacturer” in several subsections to implement House Bill 2714.

16 Proposed amendments in §9.8 move language from §9.7 regarding requirements for individuals
17 who perform work, directly supervise LP-gas activities, or are employed in any capacity requiring contact
18 with LP-gas. The proposed amendments also ensure “certificate” and “certificate holder” are used
19 throughout §9.8 instead of using “certificate,” “certificate holder,” “certified,” and “certification”
20 inconsistently. Corresponding changes are also made in other sections for consistency.

21 Proposed amendments in §9.9 clarify requirements for certificate renewal and steps to renew a
22 lapsed certificate.

23 Proposed amendments in §9.10 add language from §9.7 and §9.8 that an individual who passes
24 the applicable examination with a score of at least 75% will become a certificate holder. The proposed
25 amendments also clarify where and when examinations are available and what an examinee must bring to
26 the exam site. Further, the proposed amendments incorporate the management-level examinations and
27 their descriptions into §9.10(d)(2) instead of including those descriptions in a table. Finally, the proposed
28 amendments clarify the process for obtaining a management-level certificate.

29 Amendments proposed in §9.11 change the title to “Transfer of Employees” to more accurately
30 describe the rule’s contents. The proposed amendments also update the process for licensees who hire
31 certificate holders, including allowing notification to the Commission to include only the last four digits

1 of the employee's Social Security Number.

2 Amendments proposed in §9.13 simplify the name of an exempt individual's proof of exemption
3 such that "registration/examination exemption certificate" is changed to "exemption card." Proposed
4 amendments also update department names and other references and remove repetitive language from
5 other sections.

6 Proposed amendments in §9.17(a) clarify filing requirements for outlets. The proposed
7 amendments change "termination" to "conclusion of employment" to better communicate AFS's intent
8 for when a licensee must notify AFS of a company representative's or operations supervisor's departure.
9 The amendments in subsection (d) update manual requirements to contemplate the use of electronic
10 manuals in addition to printed manuals. The amendments also reorganize the section so that related
11 requirements are found in the same subsection or paragraph.

12 Amendments proposed in §9.26 incorporate insurance requirements for registered manufacturers.

13 Amendments proposed in §9.51 move applicable language into §9.51 from other sections or
14 tables. The proposed amendments update subsection (j) to reflect the Commission's online registration
15 process and allow an individual to register for a course using only the last four digits of his or her Social
16 Security Number. Finally, proposed amendments in §9.51 update department names and incorporate
17 changes to reflect proposed amendments in other sections.

18 Proposed amendments in §9.52 move language from a table into the rule. Further, the proposed
19 amendments clarify the process for individuals who fail to complete required training; remove dates that
20 have already passed and thus are no longer applicable; and clarify how much credit a certificate holder
21 can receive for an approved CETP course.

22 Proposed amendments to §9.54 include general updates and clarifications. The proposed
23 amendments in subsection (h) specify the process for renewal of an outside instructor approval and what
24 happens upon failure to renew. Proposed amendments in subsection (i) detail the process for outside
25 instructors when AFS revises its course materials. The proposed amendments in subsection (l) remove
26 language requiring AFS to send information related to complaints through certified mail.

27 Proposed amendments to §9.101 remove language related to local requirements due to Texas
28 Natural Resources Code §113.054, which was added by the legislature in 2011. Proposed amendments
29 also make minor updates and reorganize parts of the section for clarity.

30 Proposed amendments in §9.109 incorporate new terminology used by AFS such that a "safety
31 rule violation" is now called a "non-compliance item."

1 Amendments proposed in §9.126 incorporate specific requirements for ASME containers with an
2 individual water capacity of over 4,000 gallons. These requirements were moved from Table §9.403 to
3 simplify the table.

4 Proposed amendments in §9.132 incorporate clarifying language from Texas Natural Resources
5 Code §113.081(a).

6 Proposed amendments in §9.202, in addition to general updates and clarifications, clarify existing
7 filing requirements for registering an LP-gas transport or container delivery unit. The amendments align
8 Commission rules with U.S. Department of Transportation requirements.

9 Finally, proposed new §9.304 contains language moved from §9.6 related to the Category D
10 license. The section exempts certain individuals who service, install, and repair LP-gas appliances not
11 required to be vented to the atmosphere from the requirement to obtain a Category D license.

12 April Richardson, Director, Alternative Fuels Safety Department, has determined that there will
13 be a one-time cost to the Commission of approximately \$119,450 in programming costs based on 1250
14 hours of programming to implement changes required by HB 2714. This cost will be covered using the
15 Commission's existing budget. Further, AFS will have a one-time cost to replace outdated copies NFPA
16 54 and 58. The new copies of NFPA standards will be provided to all inspectors, to each district office, to
17 managers at the AFS Austin office, and to examinees and instructors across the state. The total estimated
18 cost to replace these books is \$19,639. This cost will also be covered using AFS's existing budget. There
19 are no anticipated fiscal implications for local governments as a result of enforcing the amendments and
20 new rule.

21 Ms. Richardson has determined that there will be minimal costs for those required to comply with
22 the proposed amendments. Any cost stems from the need to purchase the new version of NFPA 54 and/or
23 NFPA 58 if a person required to comply does not already own a copy. The softbound copies of NFPA 54
24 and NFPA 58 total \$141. Manufacturers who are no longer required to obtain a license will save \$35 per
25 company representative per year, as the certificate renewal requirements will not apply to these
26 employees.

27 Ms. Richardson has also determined that the public benefit anticipated as a result of enforcing or
28 administering the amendments will be compliance with recent changes to the Texas Natural Resources
29 Code and increased public safety due to new NFPA standards.

30 In accordance with Texas Government Code, §2006.002, the Commission has determined there
31 will be no adverse economic effect on rural communities, small businesses or micro-businesses resulting

1 from the proposed amendments and new rule; therefore, the Commission has not prepared the economic
2 impact statement or the regulatory flexibility analysis required under §2006.002.

3 The Commission has determined that the proposed rulemaking will not affect a local economy;
4 therefore, pursuant to Texas Government Code, §2001.022, the Commission is not required to prepare a
5 local employment impact statement for the proposed rules.

6 The Commission has determined that the proposed amendments and new rule do not meet the
7 statutory definition of a major environmental rule as set forth in Texas Government Code, §2001.0225;
8 therefore, a regulatory analysis conducted pursuant to that section is not required.

9 During the first five years that the rules would be in effect, the proposed amendments would not:
10 create or eliminate a government program; create or eliminate any employee positions; require an increase
11 or decrease in future legislative appropriations; increase or decrease fees paid to the agency; create a new
12 regulation; increase or decrease the number of individuals subject to the rule's applicability; expand, limit,
13 or repeal an existing regulation; or effect the state's economy. The amendments are proposed to align
14 Commission rules with governing state statutes and national standards.

15 Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel,
16 Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at
17 www.rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings; or by electronic mail
18 to rulescoordinator@rrc.texas.gov. The Commission will accept comments until 12:00 noon on Monday,
19 November 18, 2019. The Commission finds that this comment period is reasonable because the proposal
20 and an online comment form will be available on the Commission's website more than two weeks prior to
21 Texas Register publication of the proposal, giving interested persons additional time to review, analyze,
22 draft, and submit comments. The Commission cannot guarantee that comments submitted after the
23 deadline will be considered. For further information, call Ms. Richardson at (512) 463-6935. The status of
24 Commission rulemakings in progress is available at [www.rrc.texas.gov/general-counsel/rules/proposed-](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules)
25 rules.

26 The Commission proposes the amendments and new rule under Texas Natural Resources Code,
27 §113.051, which authorizes the Commission to promulgate and adopt rules and standards relating to any
28 and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and
29 safety of the general public; Texas Natural Resources Code §113.0815, which requires a person engaging
30 in the manufacture or fabrication of containers to register with the commission in accordance with rules

1 adopted by the commission; and Texas Natural Resources Code §113.082, which authorizes the
2 Commission to adopt rules establishing license categories for LP-gas activities.

3 Statutory authority: Texas Natural Resources Code, §§113.051, 113.0815, and 113.082.

4 Cross reference to statute: Texas Natural Resources Code Chapter 113.

5
6 SUBCHAPTER A. GENERAL REQUIREMENTS.

7 §9.1. Application of Rules, Severability, and Retroactivity.

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

13 (1) - (2) (No change.)

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

16 (4) - (5) (No change.)

17 (b) - (c) (No change.)

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

21 (e) As stated in Texas Natural Resources Code, Chapter 113, any LP-gas container with a water
22 capacity of one gallon or less, or any LP-gas piping system, or appliance attached or connected to such a
23 container is exempt from the LP-Gas Safety Rules in this chapter [~~LP-Gas Safety Rules~~], including any
24 adopted NFPA pamphlets. For the purpose of consistency, the figure of 4.20 lb is the equivalent [~~used to~~
25 ~~determine the weight~~] of one gallon of LP-gas. [~~The omission of a specific NFPA 58 pamphlet or any~~
26 ~~other NFPA rule containing any such applicable language from Table 1 of §9.403 of this title (relating to~~
27 ~~Sections in NFPA 58 Not Adopted by Reference, and Adopted With Changes, Additional Requirements,~~
28 ~~or Corrections) is inadvertent and shall not be read or understood as requiring or allowing any such size of~~
29 ~~LP-gas container to comply with the adopted LP-gas safety rule requirements.~~]

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

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

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

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

5 (g) Vehicles and fuel supply containers excluded from the requirements of this chapter pursuant
6 to subsection (f) of this section shall comply with the requirements of §9.203 of this title (~~relating~~ [~~-~~
7 ~~relating~~] to School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle Installations
8 and Inspections), and the Commission's exception to NFPA 58, Chapter 11, [~~§11.4.1-5~~] in Table 1 in
9 ~~§9.403 of this title~~ [~~§9.403(a), relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted~~
10 ~~with Changes or Additional Requirements~~].

11
12 §9.2. Definitions.

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

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

18 (2) [~~(1)~~] Advanced field training (AFT)--The final portion of the training or continuing
19 education requirements in which an individual shall successfully perform the specified LP-gas activities
20 in order to demonstrate proficiency in those activities.

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

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

25 (3) [~~(4)~~] AFT materials--The portion of a Commission training module consisting of the
26 four sections of the Railroad Commission's LP-Gas Qualifying Field Activities, including General
27 Instructions, the Task Information, the Operator Qualification Checklist, and the Railroad
28 Commission/Employer Record.

29 (4)[~~(5)~~] Aggregate water capacity (AWC)--The sum of all individual container capacities
30 measured by weight or volume of water which are placed at a single installation location.

31 [~~(6) Applicant--An individual.~~]

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

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

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

7 (6) ~~[(8)]~~ Breakaway--The accidental separation of a hose from a cylinder, container,
8 transfer equipment, or dispensing equipment, which could occur on a cylinder, container, transfer
9 equipment, or dispensing equipment whether or not they are protected by a breakaway device.

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

12 (7) ~~[(10)]~~ Certificate holder--An individual:

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

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

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

23 ~~(C) [(D)]~~ who holds a current reciprocal examination exemption pursuant to
24 §9.18 of this title (relating to Reciprocal Examination Agreements with Other States); or

25 ~~(D) [(E)]~~ who holds a current examination exemption certificate pursuant to
26 §9.13 of this title (relating to General Installers and Repairman Exemption).

27 (8) ~~[(11)]~~ Certified-- Authorized to perform LP-gas work as set forth in the Texas Natural
28 Resources Code. Employee certification alone does not allow an individual to perform those activities
29 which require licensing.

30 (9) ~~[(12)]~~ CETP--The Certified Employee Training Program offered by the Propane
31 Education and Research Council (PERC), the National Propane Gas Association (NPGA), or their

1 authorized agents or successors.

2 (10) [(13)] Commercial installation--An LP-gas installation located on premises other
3 than a single family dwelling used as a residence, including but not limited to a retail business
4 establishment, school, bulk storage facility, convalescent home, hospital, [~~retail LP-gas~~] cylinder
5 exchange [~~filling/exchange~~] operation, service station, forklift refueling facility, private motor/mobile fuel
6 cylinder filling operation, a microwave tower, or a public or private agricultural installation.

7 (11) [(14)] Commission--The Railroad Commission of Texas.

8 (12) [(15)] Company representative--The individual designated to the Commission by a
9 license applicant or a licensee as the principal individual in authority and, in the case of a licensee other
10 than a Category P licensee, actively supervising the conduct of the licensee's LP-gas activities.

11 (13) [(16)] Container delivery unit--A vehicle used by an operator principally for
12 transporting LP-gas in cylinders.

13 (14) [(17)] Continuing education--Courses required to be successfully completed at least
14 every four years by [~~certain~~] certificate holders to maintain certification.

15 (15) [(18)] Director--The director of AFS [~~the AED~~] or the director's delegate.

16 (16) [(19)] DOT--The United States Department of Transportation.

17 (17) [(20)] Employee--An individual who renders or performs any services or labor for
18 compensation, including individuals hired on a part-time or temporary basis, on a full-time or permanent
19 basis, and owner-employees [~~or, for purposes of this chapter, an owner-employee~~].

20 (18) [(21)] Interim approval order--The authority issued by the Railroad Commission of
21 Texas following a public hearing allowing construction of an LP-gas installation.

22 (19) [(22)] Leak grades--An LP-gas leak that is:

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

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

28 (20) [(23)] Licensed--Authorized by the Commission to perform LP-gas activities
29 through the issuance of a valid license.

30 (21) [(24)] Licensee--A person which has applied for and been granted an LP-gas license
31 by the Commission, or who holds a master or journeyman plumber license from the Texas State Board of

1 Plumbing Examiners or a Class A or B Air Conditioning and Refrigeration Contractors License from the
2 Texas Department of Licensing and Regulation and has properly registered with the Commission.

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

6 (22) ~~[(26)]~~ LP-Gas Safety Rules--The rules adopted by the Railroad Commission in the
7 Texas Administrative Code, Title 16, Part 1, Chapter 9, including any NFPA or other documents adopted
8 by reference. The official text of the Commission's rules is that which is on file with the Secretary of
9 State's office and available at the Secretary of State's web site or the Commission's web site.

10 (23) ~~[(27)]~~ LP-gas system--All piping, fittings, valves, and equipment, excluding
11 containers and appliances, that connect one or more containers to one or more appliances that use or
12 consume LP-gas.

13 (24) ~~[(28)]~~ Mass transit vehicle--Any vehicle which is owned or operated by a political
14 subdivision of a state, city, or county, used primarily in the conveyance of the general public.

15 (25) ~~[(29)]~~ Mobile fuel container--An LP-gas container mounted on a vehicle to store LP-
16 gas as the fuel supply to an auxiliary engine other than the engine to propel the vehicle or for other uses
17 on the vehicle.

18 (26) ~~[(30)]~~ Mobile fuel system--An LP-gas system, excluding the container, to supply
19 LP-gas as a fuel to an auxiliary engine other than the engine to propel the vehicle or for other uses on the
20 vehicle.

21 (27) ~~[(31)]~~ Motor fuel container--An LP-gas container mounted on a vehicle to store LP-
22 gas as the fuel supply to an engine used to propel the vehicle.

23 (28) ~~[(32)]~~ Motor fuel system--An LP-gas system, excluding the container, which
24 supplies LP-gas to an engine used to propel the vehicle.

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

27 (29) ~~[(34)]~~ Noncorrosive--Corrosiveness of gas which does not exceed the limitation for
28 Classification 1 of ASTM International (ASTM) Copper Strip Classifications when tested in accordance
29 with ASTM D 1834-64, "Copper Strip Corrosion of Liquefied Petroleum (LP) Gases."

30 (30) ~~[(35)]~~ Nonspecification unit--An LP-gas transport not constructed to DOT MC-330
31 or MC-331 specifications but which complies with the exemption in 49 Code of Federal Regulations

1 §173.315(k). (See also "Specification unit" in this section.)

2 (31) [(36)] Operations supervisor--The individual who is certified by the Commission to
3 actively supervise a licensee's LP-gas activities [~~operations~~] and is authorized by the licensee to
4 implement operational changes.

5 (32) [(37)] Outlet--A site operated by an LP-gas licensee from which any regulated LP-
6 gas activity is performed.

7 (33) [(38)] Outside instructor--An individual, other than a Commission employee,
8 approved by AFS [~~AFRED~~] to teach certain LP-gas training or continuing education courses.

9 (34) [(39)] Person--An individual, partnership, firm, corporation, joint venture,
10 association, or any other business entity, a state agency or institution, county, municipality, school
11 district, or other governmental subdivision, or licensee, including the definition of "person" as defined in
12 the applicable sections of 49 CFR relating to cargo tank hazardous material regulations.

13 (35) [(40)] Portable cylinder--A receptacle constructed to DOT specifications, designed
14 to be moved readily, and used for the storage of LP-gas for connection to an appliance or an LP-gas
15 system. The term does not include a cylinder designed for use on a forklift or similar equipment.

16 (36) [(41)] Property line--The boundary which designates the point at which one real
17 property interest ends and another begins.

18 (37) [(42)] Public transportation vehicle--A vehicle for hire to transport persons,
19 including but not limited to taxis, buses (excluding school buses and mass transit or special transit
20 vehicles), or airport courtesy vehicles.

21 (38) [(43)] Recreational vehicle--A vehicular-type unit primarily designed as temporary
22 living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is
23 mounted on, or towed by, another vehicle.

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

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

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

31 (40) [(46)] Rules examination--The Commission's written examination that measures an

1 examinee's working knowledge of Chapter 113 of the Texas Natural Resources Code and/or the current
2 rules in this chapter [LP-Gas Safety Rules].

3 (41) [(47)] School--A public or private institution which has been accredited through the
4 Texas Education Agency or the Texas Private School Accreditation Commission.

5 (42) [(48)] School bus--A vehicle that is sold or used for purposes that include carrying
6 students to and from school or related events.

7 (43) [(49)] Self-service dispenser--A listed device or approved equipment in a structured
8 cabinet for dispensing and metering LP-gas between containers that must be accessed by means of a
9 locking device such as a key, card, code, or electronic lock, and which is operated by a certified employee
10 of an LP-gas licensee or an ultimate consumer trained by an LP-gas licensee.

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

13 (45) [(50)] Special transit vehicle--A vehicle designed with limited passenger capacity
14 which is used by a [school or] mass transit authority for special transit purposes, such as transport of
15 mobility impaired persons.

16 (46) [(51)] Specification unit--An LP-gas transport constructed to DOT MC-330 or MC-
17 331 specifications. (See also "Nonspecification unit" in this section.)

18 (47) [(52)] Subframing--The attachment of supporting structural members to the pads of a
19 container, excluding welding directly to or on the container.

20 (48) [(53)] Trainee--An individual who has not yet taken and passed an employee-level
21 rules examination.

22 (49) [(54)] Training--Courses required to be successfully completed as part of an
23 individual's requirements to obtain or maintain certain certificates.

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

26 (50) [(56)] Transfer system--All piping, fittings, valves, pumps, compressors, meters,
27 hoses, bulkheads, and equipment utilized in transferring [dispensing] LP-gas between containers.

28 (51) [(57)] Transport--Any bobtail or semitrailer equipped with one or more containers.

29 (52) [(58)] Transport driver--An individual who operates an LP-gas trailer or semi-trailer
30 equipped with a container of more than 5,000 gallons water capacity.

31 (53) [(59)] Transport system--Any and all piping, fittings, valves, and equipment on a

1 transport, excluding the container.

2 (54) ~~[(60)]~~ Ultimate consumer— A person who buys a product to use rather than for resale
3 [The person controlling LP-gas immediately prior to its ignition].

4
5
6 §9.3. LP-Gas ~~[Report]~~ Forms.

7 Forms required to be filed with AFS shall be those prescribed by the Commission. A complete set
8 of all required forms shall be posted on the Commission's web site. Notice of any new or amended forms
9 shall be issued by the Commission. A person may file the prescribed form on paper or use any electronic
10 filing process. The Commission may accept an earlier version of a prescribed form, provided that it
11 contains all required information. ~~[Under the provision of the Texas Natural Resources Code, Chapter~~
12 ~~113, the Railroad Commission of Texas has adopted the following forms.]~~

13 ~~[Figure: 16 TAC §9.3]~~

14
15 §9.4. Records ~~[and Enforcement]~~.

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

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

18 (2) a copy of all documentation submitted for an exception to an LP-gas rule pursuant to
19 §9.27 of this title (relating to Application for an Exception to a Safety Rule), including the AFS ~~[LP-Gas~~
20 ~~Operations]~~ director's memorandum granting the exception, for as long as the exception is in use; and

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

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

26 (c) (No change.)

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

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

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

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

9
10 §9.5. Effect of Safety Violations.

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

13 (a) ~~[(b)]~~ Except as provided by subsections (c) and (d) ~~[(e) and (f)]~~ of this section, the
14 Commission may not approve an application for a [an initial or renewal] license, an exemption, or a
15 manufacturer registration, or their associated renewals, [or registration for an exemption] under this
16 chapter if~~[:]~~

17 ~~[(1)]~~ the applicant ~~[or registrant for an exemption]~~ has violated a statute or
18 Commission rule, order, license, permit, or certificate that relates to safety. If~~[:]~~ or

19 ~~[(2)]~~ a person who holds a position of ownership or control in the applicant ~~[or registrant~~
20 ~~for an exemption]~~ has held a position of ownership or control in another person during the seven years
21 preceding the date on which the application ~~[or registration for an exemption]~~ is filed and during that
22 period of ownership or control the other person violated a statute or Commission rule, order, license,
23 registration, permit, or certificate that relates to safety, then that violation will be attributed to the
24 applicant. Regardless of whether the person's name appears or is required to appear on an application, a
25 person holds a position of ownership or control in an applicant if the person is:

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

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

30 (b) ~~[(e)]~~ An applicant~~[-registrant for an exemption, or other person]~~ has committed a
31 violation described by subsection (a) ~~[(b)]~~ of this section if:

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

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

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

9 ~~[(1) an officer, director, general partner, sole owner, or trustee of, or the owner of~~
10 ~~at least 25 percent of the beneficial interest in the applicant, registrant for an exemption, or other person;~~
11 ~~or]~~

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

15 (c) ~~[(e)]~~ Notwithstanding subsection (a) of this section, the [The] Commission shall
16 approve an application for a license, an exemption, or a manufacturer registration ~~[or registration for an~~
17 ~~exemption]~~ under this chapter~~;~~ if all of the following conditions, if applicable, are met:

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

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

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

26 (d) ~~[(f)]~~ The Commission may issue a license, exemption, or manufacturer registration to
27 an applicant described by subsection (a) ~~[(b)]~~ of this section ~~[or approve a registration for an exemption~~
28 ~~for a registrant for an exemption described by subsection (b) of this section]~~ for a term specified by the
29 Commission if the license, exemption, or manufacturer ~~[or] registration~~ ~~[for an exemption]~~ is necessary to
30 remedy a violation of law or Commission rules.

31 (e) ~~[(g)]~~ If the Commission is prohibited by subsection (a) ~~[(b)]~~ of this section from

1 approving an application for a license, an exemption, or a manufacturer registration [~~or a registration for~~
2 ~~an exemption or would be prohibited from doing so by that subsection if the applicant, licensee, or~~
3 ~~registrant for an exemption submitted an application or registration for an exemption~~], then the
4 Commission, after notice and opportunity for a hearing, by order may refuse to renew or may revoke a
5 license, an exemption, or a manufacturer registration [~~or registration for an exemption~~] issued [~~to the~~
6 ~~applicant, licensee, or registrant for an exemption~~] under this chapter.

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

11 (2) If the Commission issues a refusal or revocation [~~an application or~~
12 ~~registration for an exemption is denied~~] under this subsection, the Commission shall provide the applicant
13 [~~or registrant for an exemption~~] with a written statement explaining the reason for the denial.

14 (3) An order issued under this subsection must provide the applicant [~~licensee, or~~
15 ~~registrant for an exemption~~] a reasonable period to comply with the judgment or order finding the
16 violation before the order takes effect.

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

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

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

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

1
2 §9.6. License Categories, Container Manufacturer Registration, [Licenses] and Fees.

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

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

11 (b) [~~(e)~~] The license categories and fees are as follows.

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

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

22 (3) A Category A2 license for U.S. Department of Transportation (DOT) container
23 assembly and repair authorizes the assembly, repair, installation, subframing, testing, and sale of LP-gas
24 DOT containers, including LP-gas motor or mobile fuel containers and systems, and the repair and
25 installation of transport and transfer systems. The original license fee is \$1,000; the renewal fee is \$600.

26 (4) [~~(2)~~] A Category B license for transport outfitters authorizes the subframing, testing,
27 and sale of LP-gas transport containers, the testing of LP-gas storage containers, the installation, testing,
28 and sale of LP-gas motor or mobile fuel containers and systems, and the installation and repair of
29 transport systems and motor or mobile fuel systems. The original license fee is \$400; the renewal fee is
30 \$200.

31 (5) [~~(3)~~] A Category C license for carriers authorizes the transportation of LP-gas by

1 transport, including the loading and unloading of LP-gas, and the installation and repair of transport
2 systems. The original license fee is \$1,000; the renewal fee is \$300.

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

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

23 (8) [(6)] A Category F license for cylinder filling authorizes the operation of a cylinder
24 filling facility, including cylinder filling, the sale of LP-gas in cylinders, and the replacement of cylinder
25 valves. The original license fee is \$100; the renewal fee is \$50.

26 (9) [(7)] A Category G license for dispensing stations authorizes the operation of LP-gas
27 dispensing stations filling ASME containers designed for motor or mobile fuel. The original license fee is
28 \$100; the renewal is \$50.

29 (10) [(8)] A Category H license for cylinder dealers authorizes the transportation and sale
30 of LP-gas in cylinders. The original license fee is \$1,000; the renewal is \$300.

31 (11) [(9)] A Category I license for service stations and cylinder filling authorizes any

1 ~~[service station and]~~ cylinder activity set out in Category F and dispensing station operations set out in
2 Category G of this section. A Category I license does not authorize the transportation of LP-gas. The
3 original license fee is \$150; the renewal is \$70.

4 (12)[(10)] A Category J license for service stations and cylinder facilities authorizes the
5 operation of a cylinder filling facility, including cylinder filling and the sale, transportation, installation,
6 and connection of LP-gas in cylinders, the replacement of cylinder valves, and the operation of an LP-gas
7 service station as set out in Category G. The original license fee is \$1,000; the renewal is \$300.

8 (13) [(11)] A Category K license for distribution systems authorizes the sale and
9 distribution of LP-gas through mains or pipes, and the installation and repair of LP-gas systems. The
10 original license fee is \$1,000; the renewal is \$300.

11 (14) [(12)] A Category L license for engine and mobile fuel authorizes the sale and
12 installation of LP-gas motor or mobile fuel containers, and the sale and installation of LP-gas motor or
13 mobile fuel systems. The original license fee is \$100; the renewal is \$50.

14 (15) [(13)] A Category M license for recreational vehicle installers and repairmen
15 authorizes the sale, service, and installation of recreational vehicle containers, and the installation, repair,
16 and service of recreational vehicle appliances, piping, and LP-gas systems, including recreational vehicle
17 motor or mobile fuel systems and containers. The original license fee is \$100; the renewal is \$70.

18 (16) [(14)] A Category N license for manufactured housing installers and repairmen
19 authorizes the service and installation of containers that supply fuel to manufactured housing, and the
20 installation, repair, and service of appliances and piping systems for manufactured housing. The original
21 license fee is \$100; the renewal is \$70.

22 (17) [(15)] A Category O license for testing laboratories authorizes the testing of LP-gas
23 containers, LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems for
24 the purpose of determining the safety of the containers or systems for LP-gas service, including the
25 necessary installation, disconnection, reconnection, testing, and repair of LP-gas motor fuel systems or
26 mobile fuel systems, transfer systems, and transport systems involved in the testing of containers. The
27 original license fee is \$400; the renewal is \$100.

28 (18) [(16)] A Category P license for portable cylinder exchange authorizes the operation
29 of a portable cylinder exchange service, where the sale of LP-gas is within a portable cylinder with an LP-
30 gas capacity not to exceed 21 pounds, where the portable cylinders are not filled on site, and where no
31 other LP-gas activity requiring a license is conducted. The original license fee is \$100; the renewal fee is

1 \$50.

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

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

10

11 §9.7. Applications for Licenses, Manufacturer Registrations, and Renewals [~~Application for License and~~
12 ~~License Renewal Requirements~~].

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

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

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

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

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

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

1 only, who meets the requirements of §9.17 of this title or has obtained a General Installers and Repairman
2 Exemption as specified in §9.13 of this title (relating to General Installers and Repairman Exemption).

3 ~~[(a) No person shall perform work, directly supervise LP gas activities, or be employed in any~~
4 ~~capacity requiring contact with LP gas unless:]~~

5 ~~[(1) that individual has taken and passed any applicable rules examination specified in~~
6 ~~§9.10 of this title (relating to Rules Examination) and in §9.17 of this title (relating to Designation and~~
7 ~~Responsibilities of Company Representatives and Operations Supervisors);]~~

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

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

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

16 ~~[(b) A person exempt from licensing as authorized by Texas Natural Resources Code,~~
17 ~~§113.081(b), shall not engage in any LP gas activities in commerce or in business without first obtaining~~
18 ~~a license.]~~

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

23 (c) ~~[(d)]~~ Licensees, registered manufacturers, company representatives, and operations
24 supervisors at each outlet shall have copies of all current licenses and/or manufacturer registrations and
25 certificates ~~[eertification cards]~~ for employees at that location available for inspection during regular
26 business hours. In addition, licensees and registered manufacturers shall maintain a current version of the
27 rules in this chapter ~~[LP Gas Safety Rules]~~ and shall provide access to these rules for ~~[at least one copy-~~
28 ~~te]~~ each company representative and operations supervisor. The rules ~~[copies]~~ shall also be available to
29 employees during business hours.

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

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

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

3 (1) a properly completed LPG Form 1 listing all names under which LP-gas related
4 activities requiring licensing are to be conducted and the applicant's properly qualified company
5 representative [~~and, for licensees engaging in LP-gas product activities as defined in Texas Natural~~
6 ~~Resources Code, §113.081(a)(4), including a 24-hour emergency response telephone number. Any~~
7 ~~company performing LP-gas activities under an assumed name ("DBA" or "doing business as" name)~~
8 ~~shall file copies of the assumed name certificates which are required to be filed with the respective county~~
9 ~~clerk's office and/or the Secretary of State's office with LP-Gas Operations;~~] and the following forms or
10 documents as applicable:

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

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

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

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

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

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

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

25 (2) [~~(3)~~] payment for all applicable fees. If the applicant submits the payment by mail, the
26 payment shall be in the form of a check or money order. If the applicant pays the applicable fee online,
27 the applicant shall submit a copy of the online receipt via mail, email, or fax. [~~pay the following fees:~~

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

30 ~~[(B) transport registration fees specified in §9.202 of this title (relating to~~
31 ~~Registration and Transfer of LP-Gas Transports or Container Delivery Units), if the applicant for license~~

1 ~~intends to operate a transport or container delivery unit; and]~~

2 ~~[(C) the nonrefundable management level rules examination fee specified in~~
3 ~~§9.10 of this title (relating to Rules Examination); and]~~

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

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

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

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

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

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

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

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

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

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

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

31 (E) a copy of current ASME Code, Section VIII certificate of authorization or

1 “R” certificate. If ASME is unable to issue a renewed certificate of authorization prior to the expiration
2 date, the manufacturer may request in writing an extension of time not to exceed 60 calendar days past the
3 expiration date. The request for extension shall be received by AFS prior to the expiration date of the
4 ASME certificate of authorization referred to in this section, and shall include a letter or statement from
5 ASME that the agency is unable to issue the renewal certificate of authorization prior to expiration and
6 that a temporary extension will be granted for its purposes. A registered manufacturer shall not continue
7 to operate after the expiration date of an ASME certificate of authorization until the manufacturer files a
8 current ASME certificate of authorization with AFS or AFS grants a temporary exception.

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

11 (3) The required fee shall accompany LPG Form 1M. An original registration fee is
12 \$1,000; the renewal fee is \$600.

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

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

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

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

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

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

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

27 (j) [(h)] For license and manufacturer registration renewals: [;]

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

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

3 (3) The licensee or registered manufacturer shall review and return all renewal
4 documentation [~~Renewals shall be submitted~~] to AFS [~~LP Gas Operations~~] with any necessary changes
5 clearly marked on the forms. The licensee or registered manufacturer shall submit any applicable fees
6 with the renewal documentation.

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

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

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

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

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

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

26 (9) After verification that [~~if~~] the licensee or registered manufacturer has met all [~~other~~]
27 requirements for licensing or manufacturer registration, AFS [~~LP Gas Operations~~] shall renew the license
28 or registration and send the applicable authorization to the licensee or manufacturer [~~and the person may~~
29 ~~resume LP gas activities].~~

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

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

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

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

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

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

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

26 (1) [(f)] Applicants for license or license renewal in the following categories shall comply with
27 these additional requirements:

28 ~~[(1) An applicant for a Category A license or renewal shall file with LP-Gas Operations~~
29 ~~for each of its outlets legible copies of:]~~

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

1 ~~[(B) its current American Society of Mechanical Engineers (ASME) Code,~~
2 ~~Section VIII certificate of authorization].~~

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

7 (2) [(3)] An applicant for Category A, B, or O license or renewal who tests tanks,
8 subframes LP-gas cargo tanks, or performs other activities requiring DOT registration shall file with AFS
9 [~~LP-Gas Operations~~] a copy of any applicable current DOT registrations. Such registration shall comply
10 with Title 49, Code of Federal Regulations, Part 107 (Hazardous Materials Program Procedures), Subpart
11 F (Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers and Repairers and Cargo
12 Tank Motor Vehicle Assemblers).

13
14 §9.8. Requirements and Application for a New Certificate.

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

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

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

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

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

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

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

30 (c) [(a)] An applicant for a new certificate shall:

31 (1) file with AFS [~~AFRED~~] a properly completed LPG Form 16 and the applicable

1 nonrefundable rules examination fee specified in §9.10 of this title (relating to Rules Examination);

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

3 (3) complete any required training and/or AFT in §9.51 and §9.52 of this title [~~(relating to~~
4 ~~General Requirements for Training and Continuing Education; and Training and Continuing Education~~
5 ~~Courses)~~].

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

9
10 §9.9. Requirements for Certificate Holder Renewal.

11 (a) ~~[Active status:]~~ In order to maintain active status, certificate holders shall renew their
12 certificate annually as specified in [~~comply with the applicable continuing education requirements in~~] this
13 section.

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

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

21 (1) Failure to pay the nonrefundable annual renewal fee by the deadline shall result in a
22 lapsed certificate [~~certification~~].

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

26 (B) If an individual's certificate lapses or [~~a person's certification~~] expires, that
27 individual [~~person~~] shall immediately cease performance of any LP-gas activities authorized by the
28 certificate [~~certification~~].

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

1 of this title [for a new certificate].

2 (2) Upon receipt of the annual renewal fee and any late-filing ~~fee [penalty]~~, AFS
3 [AFRED] shall verify that all applicable requirements have been met [the individual's certification has not
4 been suspended, revoked, or expired for more than two years]. After verification, AFS [AFRED] shall
5 renew the certificate and send a copy of the certificate, or exemption card, if applicable, [certification]
6 and the individual may continue or resume LP-gas activities authorized by that certificate [certification].

7 (d) ~~[Continuing education.]~~ Certificate holders shall successfully complete the continuing
8 education requirements as specified in §9.51 and §9.52 of this title (relating to General Requirements for
9 Training and Continuing Education, and Training and Continuing Education [~~Courses~~]) to maintain active
10 status.

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

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

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

17 (4) If an individual's certificate has been expired for more than two years, that individual
18 shall comply with the requirements in §9.8 or §9.13 of this title.

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

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

25
26 §9.10. Rules Examination.

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

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

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

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

4 (1) a completed LPG Form 16; and

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

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

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

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

25 [(3) The Commission may not issue a certification card to an applicant for a
26 management level certificate that requires completion of a course of instruction until the applicant
27 completes both the required course of instruction and passes the required management level rules
28 examination.]

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

1 applicant.]

2 (3) [(5)] Exam fees.

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

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

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

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

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

20 (4) [(6)] Time limits.

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

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

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

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

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

31 (D) The examination proctor shall mark any answer sheet that was not

1 completed within the time limit.

2 (5) [(7)] The Commission may offer employee-level LP-Gas Transport Driver, DOT
3 Cylinder Filling, and Motor/Mobile Fuel Dispensing examinations in Spanish or English.

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

6 (1) Employee-level examinations.

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

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

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

21 (D) [(4)] The Non-Road Motor Fuel Technician examination qualifies an
22 individual to install LP-gas motor fuel containers, cylinders, and LP-gas motor fuel systems, and replace
23 container valves on vehicles such as industrial forklift trucks and lawnmowers. The Non-Road Motor
24 Fuel Technician examination does not authorize an individual to fill LP-gas motor fuel containers or
25 cylinders.

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

31 (F) [(6)] The DOT Cylinder Filler [Filling] examination qualifies an individual to

1 inspect, requalify, fill, disconnect and connect cylinders, including industrial truck cylinders, and to
2 exchange cylinder valves. The DOT Cylinder Filler [~~Filling~~] examination does not authorize an individual
3 to fill ASME motor or mobile fuel containers.

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

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

12 (I) [~~(9)~~] The Appliance Service and Installation Technician examination qualifies
13 an individual to perform all LP-gas activities related to appliances, including installing, repairing and
14 converting appliances, installing and repairing connectors from the appliance gas stop through the venting
15 system, and to perform leak checks on the new or repaired portion of an LP-gas system. The Appliance
16 Service and Installation Technician examination does not authorize an individual to install a container,
17 install or repair piping upstream of and including the appliance gas stop, or to install, repair or adjust
18 regulators.

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

23 (2) Management-level examinations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (O) The Category M examination qualifies an individual to sell, service, and
31 install recreational vehicle containers, and to install, repair, and service recreational vehicle appliances,

1 pipng, and LP-gas systems, including recreational vehicle motor or mobile fuel systems and containers.

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

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

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

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

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

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

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

27 (f) [(d)] Failure of any examination shall immediately disqualify the individual from performing
28 any LP-gas related activities covered by the examination which is failed, except for activities covered by
29 a separate examination which the individual has passed. ~~[If requested by an individual who failed the~~
30 ~~examination, AFRED shall furnish the individual with an analysis of the individual's performance on the~~
31 ~~examination.]~~

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

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

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

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

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

13
14 §9.11. Transfer of Employees [~~Previously Certified Individuals~~].

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

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

22 (2) the last four digits of the employee's [~~employee~~] social security number [~~, names of~~
23 ~~the newly hired certified employee's previous and new employers, and types of LP-gas work to be~~
24 ~~performed by the newly hired certified employee. A state agency, county, municipality, school district, or~~
25 ~~other governmental subdivision is exempt from this subsection if such entity chooses not to certify its~~
26 ~~employees who perform LP-gas activities].~~

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

30
31 §9.12. Trainees.

1 ~~[(a)]~~ A licensee or ultimate consumer may employ an individual as a trainee for a period not to
2 exceed 45 calendar days without that individual having successfully completed the rules examination as
3 specified in §9.10 of this title (relating to Rules Examination) or registered as specified in §9.13 of this
4 title (relating to General Installers and Repairman Exemption) subject to the following conditions.

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

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

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

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

16
17 §9.13. General Installers and Repairman Exemption.

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

23 (1) (No change.)

24 (2) submits a legible copy ~~[photocopy]~~ of a current Air Conditioning and Refrigeration
25 Contractor or Master or Journeyman Plumbers certificate;

26 (3) submits a legible copy ~~[photocopy]~~ of a picture state-issued identification card or
27 driver's license;

28 (4) - (5) (No change.)

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

31 (c) The ~~[registration/examination]~~ exemption accrues to the individual and is nontransferable.

1 (d) (No change.)

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

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

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

22
23 §9.14. Military Fee Exemption.

24 (a) - (d) (No change.)

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

30
31 §9.15. Penalty Guidelines for LP-Gas Safety Violations.

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

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

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

25 (d) (No change.)

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

31 Figure: 16 TAC §9.15(e)

1 (f) - (j) (No change.)

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

6 Figure: 16 TAC §9.15(k)

7
8 §9.16. Hearings for Denial, Suspension, or Revocation of Licenses, Manufacturer Registrations, or
9 Certificates.

10 (a) The Commission may deny, suspend, or revoke a license, registration, or certificate for any
11 person [~~individual~~] who fails to comply with the rules in this chapter [~~LP-Gas Safety Rules~~].

12 (1) If AFS [~~LP-Gas Operations~~] determines that an applicant for license, manufacturer
13 registration, certificate, or renewal has not met the requirements of the rules in this chapter [~~LP-Gas~~
14 ~~Safety Rules~~], AFS [~~LP-Gas Operations~~] shall notify the applicant in writing of the reasons for the
15 proposed denial. In the case of an applicant for license, manufacturer registration, or certificate, the notice
16 shall advise the person that the application may be resubmitted within 30 calendar days of receipt of the
17 denial with all cited deficiencies corrected, or, if the person disagrees with AFS' [~~LP-Gas Operations~~']
18 determination, that person may request in writing a hearing on the matter within 30 calendar days of
19 receipt of the notice of denial.

20 (2) If a person resubmits the application [~~for license or license renewal~~] within 30
21 calendar days of receipt of the denial with all deficiencies corrected, AFS [~~LP-Gas Operations~~] shall issue
22 the license, manufacturer registration, certificate, or [~~license~~] renewal as applicable.

23 (b) Hearing regarding denial of license, manufacturer registration, certificate or associated
24 renewals [~~license renewal~~].

25 (1) An applicant receiving a notice of denial [~~of a license or license renewal~~] may
26 request a hearing to determine whether the applicant did comply in all respects with the requirements for
27 the category [~~or categories of~~] license, registration, or certificate sought. The request for hearing shall be
28 in writing, shall refer to the specific requirements the applicant claims were met, and shall be submitted to
29 AFS [~~LP-Gas Operations~~] within 30 calendar days of the applicant's receipt of the notification of denial.

30 (2) Upon receipt of a request complying with paragraph (1) of this subsection, AFS [~~LP-~~
31 ~~Gas Operations~~] shall forward the request for a hearing to the Hearings Division [~~Office of General~~
32 ~~Counsel~~] for the purpose of scheduling a hearing within 30 calendar days following the receipt of the

1 request for hearing to determine the applicant's compliance or noncompliance with applicable
2 requirements~~[the licensing requirements for the category or categories of license sought]~~.

3 (3) If, after hearing, the Commission finds the applicant's claim has been supported, the
4 Commission may issue an order approving the license, manufacturer registration, or certificate and AFS
5 shall issue the license, manufacturer registration, certificate, or associated renewal if applicable ~~[it shall~~
6 ~~enter an order in its records to that effect, noting the category or categories of license for which the~~
7 ~~applicant is entitled to be licensed, and the license or renewal shall be issued]~~.

8 (4) If, after hearing, the Commission finds that the applicant does not comply with the
9 requirements of this chapter, the Commission may issue an order denying the application or renewal ~~[is~~
10 ~~not qualified for the license or license renewal in the category or categories of license sought, it shall~~
11 ~~likewise enter an order in its records to that effect, and no license or renewal shall be issued to the~~
12 ~~applicant]~~.

13 (c) Suspension or revocation of licenses, manufacturer registrations, or certificates
14 ~~[certifications]~~.

15 (1) If AFS ~~[LP-Gas Operations]~~ finds by means including but not limited to inspection,
16 review of required documents submitted, or complaint by a member of the general public or any other
17 person, a probable or actual violation of or noncompliance with the Texas Natural Resources Code,
18 Chapter 113, or the rules in this chapter, AFS ~~[LP-Gas Safety Rules, LP-Gas Operations]~~ shall notify the
19 licensee, registered manufacturer, or certificate holder ~~[certified person]~~ of the alleged violation or
20 noncompliance in writing.

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

30 (3) The licensee, registered manufacturer, or certificate holder ~~[certified person]~~ shall
31 either report the correction or discontinuance of the violation or noncompliance within the time frame

1 specified in the notice or shall request an extension of time in which to comply. The request for extension
2 of the time to comply shall be received by LP-Gas Operations within the same time frame specified in the
3 notice for correction or discontinuance.

4 (d) Hearing regarding suspension or revocation of licenses, manufacturer registrations, and
5 certificates [~~certifications~~].

6 [(+) If a licensee, registered manufacturer, or certificate holder [~~certified person~~]
7 disagrees with the determination of AFS [~~LP-Gas Operations~~] under this section, that person may request
8 a public hearing on the matter to be conducted as specified in Chapter 1 of this title (relating to Practice
9 and Procedure) [~~in compliance with the Texas Government Code, Chapter 2001, et seq., Chapter 1 of this~~
10 ~~title (relating to Practice and Procedure), and this chapter~~]. The request shall be in writing, shall refer to
11 the specific rules or statutes the [~~licensee or certified~~] person claims to have complied with, and shall be
12 received by AFS [~~LP-Gas Operations~~] within 30 calendar days of the [~~licensee's or certified~~] person's
13 receipt of the notice of violation or noncompliance. AFS [~~LP-Gas Operations~~] shall forward the request
14 for hearing to the Hearings Division [~~Office of General Counsel~~].

15 [(2) If LP-Gas Operations determines that the licensee or certified person may not comply within
16 the specified time, LP-Gas Operations may call a public hearing to be conducted in compliance with the
17 Texas Government Code, Chapter 2001, et seq., Chapter 1 of this title, and any other applicable rules.]

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

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

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

26 (2) (No change.)

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

28 (A) (No change.)

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

1 (C) (No change.)

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

5 (5) A licensee shall immediately notify AFS [~~LP-Gas Operations~~] in writing upon
6 conclusion of employment [~~termination~~], for whatever reason, of its company representative or any
7 operations supervisor and shall at the same time designate a replacement [~~by submitting a new LPG Form~~
8 ~~1 for a new company representative or a new LPG Form 1A for a new operations supervisor~~].

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

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

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

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

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

28 (3) have a working knowledge of the licensee's LP-gas activities to ensure [~~insure~~]
29 compliance with the rules in this chapter and the Commission's administrative requirements [~~LP-Gas~~
30 ~~Safety Rules~~];

31 (4) pass the appropriate management-level rules examination [~~and complete any required~~

1 ~~training specified in §9.52 of this title (relating to Training and Continuing Education Courses)~~, or, in the
2 case of an applicant for a Category D license, obtain an exemption [~~a General Installers and Repairman~~
3 ~~Exemption~~] as specified in §9.13 of this title (relating to General Installers and Repairman Exemption);
4 (5) complete any required training and/or continuing education required in §§9.51 and
5 9.52 of this title (relating to General Requirements for LP-Gas Training and Continuing Education, and
6 Training and Continuing Education, respectively);

7 (6) [(5)] comply with the work experience or training requirements in subsection (g) of
8 this section, if applicable;

9 (7) [(6)] be directly responsible for all employees performing their assigned LP-gas
10 activities, unless an operations supervisor is fulfilling this requirement; and

11 (8) [(7)] submit any additional information as deemed necessary by AFS [~~LP-Gas~~
12 ~~Operations~~].

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

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

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

21 (3) complete any required training and/or continuing education required in §§9.51 and
22 9.52 of this title; and

23 (4) [(3)] be directly responsible for actively supervising the LP-gas activities of the
24 licensee at the designated outlet.

25 (d) Category P licensees.

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

30 (2) In lieu of an operations supervisor requirement for a Category P license, the Category
31 E or J [,-or other] licensee providing the Category P licensee with portable cylinders for exchange shall be

1 required to:

2 (A) [(+)] prepare a manual containing, at a minimum, the following:

3 (i) [(A)] a description of the basic characteristics and properties of LP-
4 gas

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

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

9 (iv) [(D)] a prohibition against moving or installing cylinder cages at any
10 store location;

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

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

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

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

20 (ix) [(I)] detailed emergency procedures regarding a leaking cylinder,
21 including all applicable emergency contact numbers;

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

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

26 (xii) [(L)] all provisions of Subchapter H ("Enforcement") of Chapter
27 113 of the Texas Natural Resources Code;

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

31 (xiv) [(N)] a page for the signatures, printed names and dates of training

1 for each individual trained at each outlet on this manual.

2 (B) [(2)] provide a ~~[copy of the]~~ manual in print or electronic format ~~[for display]~~
3 at each outlet or location of the Category P licensee; and

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

8 [(4) complete all three requirements of this subsection, for existing Category P licensees,
9 prior to October 25, 2001, and within 45 days of any Category P license obtained on or after September 1,
10 2001].

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

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

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

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

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

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

29 (A) The written request shall include a description of the individual's LP-gas
30 experience and other related information in order that the AFS ~~[AFRED]~~ director may properly evaluate
31 the request. ~~[If the individual fails to complete the training requirements within the time granted by the~~

1 ~~AFRED director, the conditional qualification shall immediately be voided and the conditionally qualified~~
2 ~~company representative or operations supervisor shall immediately cease all LP-gas activities.]~~

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

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

11
12 §9.18. Reciprocal Examination Agreements with Other States.

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

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

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

25 (2) - (3) (No change.)

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

29 (5) (No change.)

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

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

5 (2) (No change.)

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

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

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

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

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

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

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

26 (1) - (2) (No change.)

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

1 (g) AFS [~~Upon the effective date of this section, AFRED~~] may issue reciprocal examination
2 exemptions only for LP-gas transport driver examinations. For purposes of reciprocal agreements, a
3 "transport" is defined as a cargo tank motor vehicle of more than 5,000 gallons water capacity.
4

5 §9.21. Franchise Tax Certification and Assumed Name Certificates.

6 (a) An applicant for an original or renewal license or registered manufacturer that is a
7 corporation, limited partnership, or limited liability company shall be approved to transact business in
8 Texas by [~~in good standing with~~] the Texas Comptroller of Public Accounts [~~of the State of Texas~~]. The
9 licensee or registered manufacturer shall provide a copy of the current Certificate of Account Status
10 [~~Franchise Tax Statement~~] from the Texas Comptroller of Public Accounts [~~showing "In Good~~
11 ~~Standing"~~].

12 (b) All applicants for license or manufacturer registration, or their corresponding renewals, shall
13 list on LPG Form 1 or LPG Form 1M all names under which LP-gas related activities requiring licensing
14 or registration as a container manufacturer are to be conducted. Any company performing LP-gas
15 activities under an assumed name ("DBA" or "doing business as" [~~name~~]) shall file with AFS copies of
16 the assumed name certificates which are required to be filed with the respective county clerk's office
17 and/or the Secretary of State's Office [~~secretary of state's office with LP-Gas Operations~~].
18

19 §9.22. Changes in Ownership, Form of Dealership, or Name of Dealership.

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

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

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

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

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

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

15 (1) an amended LPG Form 1 or LPG Form 1M; [~~and, if applicable,~~]

16 (2) an amended Form 1A if outlet names will change;

17 (3) [(2)] a copy of the licensee's or registered manufacturer's business documents
18 reflecting the name change, such as amendments to the articles of incorporation or assumed name filings;

19 (4) [(3)] certificates of insurance or affidavits in lieu of insurance if [(where)] permitted by
20 §9.26 of this title (relating to Insurance and Self-Insurance Requirements) or both; and

21 (5) [(4)] any other forms required by AFS [~~an amended LPG Form 7 to transfer any LP-~~
22 ~~gas transport or container delivery unit, including any fees specified in §9.202 of this title (relating to~~
23 ~~Registration and Transfer of LP-Gas Transports or Container Delivery Units); and]~~

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

25 (d) (No change.)

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

30
31 §9.23. Limitation/Avoidance of Licensee Liability. **[NO CHANGES]**

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§9.26. Insurance and Self-Insurance Requirements.

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

Figure: 16 TAC §9.26(a)

- (1) (No change.)
- (2) properly completed documents demonstrating the applicant's compliance with the self-insurance requirements set forth in subsection (j) [(†)] of this section.

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

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

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

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

8 (f) A licensee, registered manufacturer, or applicant for a license or manufacturer registration that
9 does not engage in or contemplate engaging in any operations that would be covered by general liability
10 insurance may file LPG Form 998B in lieu of filing a general liability insurance form. The licensee,
11 registered manufacturer, or applicant for a license or manufacturer registration shall file the required
12 insurance form with AFS [~~LP-Gas Operations~~] before engaging in any operations that require general
13 liability insurance.

14 (g) (No change.)

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

20 (i) Self-insurance requirements.

21 (1) (No change.)

22 (2) A licensee or license applicant desiring to self-insure shall file with AFS [~~LP-Gas-~~
23 ~~Operations~~] a properly completed LPG Form 28, Notice of Election to Self-Insure [~~(created 11/02)~~] and a
24 properly completed LPG Form 28-A, Bank Declarations Regarding Irrevocable Letter of Credit [~~(created~~
25 ~~11/02)~~]. The licensee or license applicant shall attach to the LPG Form 28-A any documentation
26 necessary to show that the bank issuing the irrevocable letter of credit meets the requirements in
27 paragraph (5)(E) of this subsection.

28 (3) - (5) (No change.)

29 (6) In addition to the requirements of §9.36 of this title (relating to Report of LP-Gas
30 Incident/Accident), within [~~Within~~] 30 days of the occurrence of any incident or accident involving the
31 business activities of a self-insured LP-gas licensee that results in property damage or loss and/or personal

1 injuries, the licensee shall notify AFS [~~LP-Gas Operations~~] in writing of the incident. The licensee shall
2 include in the notification a list of the names and addresses of any individuals known to the licensee who
3 may have suffered losses in the incident. The licensee shall also provide written notice to all such
4 individuals of the licensee's status as being self-insured and of the expiration date of the licensee's letter of
5 credit.

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

13
14 §9.27. Application for an Exception to a Safety Rule.

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

17 (b) The application shall contain the following:

18 (1) the section number of any [~~applicable~~] rules for which an exception is being
19 requested;

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

22 (3) (No change.)

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

26 (A) – (B) (No change.)

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

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

31 (5) the name, business address, and telephone number of the applicant and of the

1 authorized agent, if any; and

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

4 ~~(6) [(7)]~~ a list of the names and addresses of all interested entities as defined in subsection
5 (c) of this section.

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

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

13 (2) - (3) (No change.)

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

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

22 (e) AFS [~~LP-Gas Operations~~] shall review the application within 21 business days of receipt of
23 the application.

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

31 (2) If the AFS [~~LP-Gas Operations~~] director denies the exception, AFS [~~LP-Gas-~~

1 ~~Operations~~] shall notify the applicant in writing, outlining the reasons and any specific deficiencies.

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

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

6 (5) ~~(f)~~ A hearing shall be held when AFS [~~LP-Gas Operations~~] receives an objection as
7 set out in subsection (d) from any affected entity, or when the applicant requests one following an
8 administrative denial. AFS [~~LP-Gas Operations~~] shall forward the request for hearing to the Hearings
9 Division [~~mail the notice of hearing to the applicant and all objecting entities by certified mail, return-~~
10 ~~receipt requested, at least 21 calendar days prior to the date of the hearing. Hearings will be held in-~~
11 ~~accordance with the Texas Government Code, Chapter 2001, et seq., Chapter 1 of this title (relating to~~
12 ~~Practice and Procedure), and this chapter~~].

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

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

19 (h) ~~(i)~~ A request for an exception shall expire if it is inactive for three months after the date of
20 the letter in which the applicant was notified by AFS [~~LP-Gas Operations~~] of an incomplete request. The
21 applicant may restart the application process [~~resubmit an application request~~].

22
23 §9.28. Reasonable Safety Provisions.

24 If an LP-gas installation, equipment, or appurtenances not specifically covered by the rules in this
25 chapter [~~LP-Gas Safety Rules~~] has been or will be installed, AFS may [~~LP-Gas Operations shall apply-~~
26 ~~and~~] require a licensee to comply with additional or alternative [~~any~~] reasonable safety provisions to
27 ensure the LP-gas installation is safe for LP-gas service. If the affected licensee [~~entity~~] disagrees with
28 AFS' requirements [~~LP-Gas Operations' determination~~], the licensee [~~entity~~] may request a hearing. The
29 installation shall not be placed into LP-gas service [~~operation~~] until the Commission has determined that
30 the installation is safe for LP-gas service.

31

1 §9.31. LP-Gas Regional Supply Emergency Response. [NO CHANGES.]

2

3 §9.32. Consumer Safety Notification. [NO CHANGES.]

4

5 §9.35. Written Procedure for LP-Gas Leaks.

6 (a) Each [~~In addition to NFPA 58 §14.4.9.1, each~~] licensee shall maintain a written procedure to
7 be followed when any employee receives notification of a possible leak. The licensee shall ensure that all
8 employees are familiar with the procedure and shall authorize employees to implement the procedure
9 without management oversight. The written procedure shall be available to emergency response agencies
10 as specified in NFPA 58, §6.29.2 [~~§6.25.2 and as stated in Table 1 of §9.403 of this title, (relating to~~
11 ~~Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional~~
12 ~~Requirements~~].

13 (b) - (c) (No change.)

14

15 §9.36. Report of LP-Gas Incident/Accident.

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

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

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

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

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

23 [~~or~~]

24 (5) caused an estimated damage to the property of the operator, others, or both totaling
25 \$5,000 or more, including gas loss; [~~or~~]

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

28 (7) (No change.)

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

31 (1) name of reporting operator;

- 1 (2) location of leak or incident;
- 2 (3) date and time of incident;
- 3 (4) fatalities and/or personal injuries;
- 4 (5) phone number of operator;
- 5 (6) status of incident regarding immediate hazard; and
- 6 (7) other significant facts relevant to the incident.

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

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

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

21
22 §9.37. Termination of LP-Gas Service.

23 (a) This may include appliances, equipment, or any part of the system including the servicing
24 container. A warning tag shall be installed by AFS [~~LP-Gas Operations~~] until the unsafe condition is
25 remedied. Once the unsafe condition is corrected, the tag may be removed if authorized by AFS [~~LP-Gas~~
26 ~~Operations~~].

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

1 the container or installation complies with Texas Natural Resources Code, Chapter 113, and the LP-Gas
2 Safety Rules, AFS [~~LP-Gas Operations~~] may remove or delegate the removal of the warning tag.

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

9
10 §9.38. Reporting Unsafe LP-Gas Activities.

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

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

21 (c) (No change.)
22

23 §9.41. Testing of LP-Gas Systems in School Facilities.

24 (a) (No change.)

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

27 (1) The leakage test shall be performed by an LP-gas licensee, an individual registered
28 with the Commission pursuant to §9.13 of this title (relating to General Installers and Repairman
29 Exemption), or an employee of the school district who is a certificate holder [~~has been certified by the~~
30 ~~Commission to perform such a test~~].

31 (2) [(+)] If a leak is found in a school LP-gas system, the school district shall immediately

1 remove the affected school district facility from LP-gas service until repairs are made and it passes a
2 subsequent school LP-gas system leakage test. If an employee of a school district performs the initial test,
3 then the subsequent test may not be performed by a school district employee.

4 (3) [(2)] Each school district shall provide the district's supplier with a copy of the most
5 current LP-Gas Form 30 as proof the school LP-gas system has been tested in accordance with this
6 section.

7 (4) [(3)] A school district shall retain LPG Form 30 specifying the date and result of the
8 leakage test performed on each school LP-gas system for a minimum of five years from the date each test
9 was performed. A school district shall make LPG Form 30 readily available for review by the
10 Commission or its authorized representative upon request.

11 (c) Leakage test requirements.

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

14 (2) - (6) (No change.)

15 (d) Methods for conducting a leakage test.

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

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

27 (3) Downstream of final stage regulator(s). For systems serving appliances that receive
28 gas at pressures of 1/2 psig or less, insert a water manometer or pressure gauge into the system
29 downstream of the final system regulator. Pressurize the system to normal operating pressure and close
30 the manual shutoff valve on the container(s). To ensure that all regulators in the system are unlocked and
31 a leak anywhere in the system is communicated to the gauging instrument, release enough gas from the

1 system, through a range burner or other suitable means, to drop the pressure to 9 (plus or minus 1/2)
2 inches of water column. If there is no decrease or increase in gauge pressure after the minimum test
3 duration of 30 minutes, the system has no leakage and may remain in service.

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

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

7 (2) – (3) (No change.)

8 (f) Commission requirements.

9 (1) (No change.)

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

12 (g) Compliance deadlines.

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

15 (2) School districts shall complete the ~~[initial]~~ leakage tests before the beginning of the
16 ~~[2010-2011]~~ school year. In the case of a year-round school, a school district shall ensure that a leakage
17 test in each school district facility is conducted and reported not later than July 1 of the year in which the
18 test is performed~~[, with the first test due by July 1, 2010]~~.

19 (3) (No change.)

20
21 §9.51. General Requirements for LP-Gas Training and Continuing Education.

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

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

1 (c) [(4)] The training requirements apply [only] to:

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

3 (2) applicants for the following [ertain] employee-level certifications: [eertificates]

4 (A) bobtail driver;

5 (B) DOT cylinder filler;

6 (C) recreational vehicle technician;

7 (D) service and installation technician;

8 (E) appliance service and installation technician;

9 (F) motor/mobile fuel filler; and

10 (G) dispenser operator.

11 (d) [(2)] The continuing education requirements apply to the following individuals:

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

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

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

17 (A) bobtail driver;

18 (B) DOT cylinder filler;

19 (C) recreational vehicle technician;

20 (D) service and installation technician;

21 (E) appliance service and installation technician;

22 (F) motor/mobile fuel filler; and

23 (G) dispenser operator

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

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

29 (e) [(3)] The training and continuing education requirements do not apply to an individual who:

30 (1) [(A)] drives or fuels [an ultimate consumer driving or fueling] a motor vehicle
31 powered by LP-gas as an ultimate consumer;

1 (2) ~~[(B)] [an individual who]~~ fuels motor vehicles as an employee of an ultimate
2 consumer;

3 (3) ~~[(C)] is employed by [an employee of]~~ a state agency, county, municipality, school
4 district, or other governmental subdivision ~~[, unless such an individual is or becomes certified];~~

5 (4) ~~[(D)] holds [an individual with]~~ a general installers and repairman exemption; or

6 (5) holds a management or employee-level certification not specified in subsection (c) or
7 ~~(d) of this section [(E) anyone certified only as a transport driver, or who holds only on-road motor fuel,~~
8 ~~non-road motor fuel, or mobile fuel certification].~~

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

15 (g) ~~[(e)]~~ Individual credit. Successful completion of any required training or continuing education
16 course [e]lass shall be credited to and accrue to the individual.

17 (h) ~~[(d)]~~ No partial credit. Individuals attending courses [e]lasses shall receive credit only if they
18 attend the entire course [e]lass and pay any training or continuing education course fees in full. The
19 Commission shall not award partial credit for partial attendance.

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

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

27 (1) Registering for a course. To register for a scheduled training or continuing education
28 course [e]lass, an individual shall complete the online registration process at least seven days [form-
29 provided by AFRED and file the form with AFRED training section] prior to the course [e]lass. AFS
30 [AFRED] shall also accept course [e]lass registrations via regular mail, electronic mail (e-mail), or
31 facsimile transmission (fax). Such [; such] requests shall include the applicant's full name, address, phone

1 number, level (either manager or employee) and category of certification (such as cylinder filling or
2 service and installation), e-mail address, and the name or number, location, and date of the requested
3 course [e]lass].

4 (2) Costs for courses [e]lasses.

5 (A) Each registration for a training course [e]lass shall require the payment of the
6 applicable nonrefundable course [e]lass fee as follows:

7 (i) \$75 for an [~~initial~~] eight-hour course [e]lass];

8 (ii) \$150 for the [~~initial~~] 16-hour Category F, G, I, and J course [e]lass];

9 and

10 (iii) \$750 for the [~~initial~~] 80-hour Category E course [e]lass].

11 (B) The course [Category E, F, G, I, and J e]lass fees do not include the license
12 or [management level] rules examination fees [or license fee] described in §9.6 and §9.10 of this title
13 (relating to License Categories, Container Manufacturer Registration, and Fees, and Rules Examination,
14 respectively).

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

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

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

28 (G) [~~F~~] AFS [AFRED] may charge reasonable fees for materials for courses
29 [~~e]lasses~~] using third-party materials.

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

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

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

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

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

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

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

17 (1) a registration confirmation email or fax;

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

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

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

26
27 §9.52. Training and Continuing Education [~~Courses~~].

28 (a) Training. Individuals identified in §9.51(c) of this title (relating to General Requirements for
29 LP-Gas Training and Continuing Education) shall complete training. [~~In addition to complying with~~
30 ~~NFPA §§4.4 and 11.2, applicants for a new certification and applicants who have passed a certification~~
31 ~~examination but have not completed an applicable training course shall complete training as specified in~~

1 ~~the tables in subsection (h) of this section prior to their first certificate renewal deadline.]~~

2 (1) Available training courses.

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

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

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

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

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

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

17 (G) The 80-hour Category E course covers all the material in courses 2.1, 2.3,
18 3.2, 3.3 and 3.8, and the Commission's rules in this chapter, including NFPA 54 and NFPA 58.

19 (2) Training requirements.

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

22 (B) Category F, G, I, and J management-level applicants shall attend the 16-hour
23 Category F, G, I and J course [e]lass]; and

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

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

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

1 course.

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

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

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

5 course.

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

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

8 (viii) Appliance Service and Installation applicants may complete either

9 the 3.2 or 3.3 course.

10 (ix) Recreational Vehicle Technician applicants shall complete the 3.8

11 course.

12 (3) [(+)] Individuals who pass an employee-level rules examination between March 1
13 and May 31 of any year shall have until May 31 of the next year to complete any required training.

14 Individuals who pass an employee-level rules examination at other times shall have until the next May 31
15 to complete any required training. Completion of AFT shall be in accordance with subsection (g) of this
16 section.

17 (4) [(2)] Applicants for company representative or operations supervisor shall comply
18 with the training requirements in this section prior to the Commission issuing a certificate.

19 (b) Continuing education. A certificate holder shall complete at least eight hours of continuing
20 education every four years as specified in this subsection [~~the tables in subsection (h) of this section~~].
21 Continuing education courses are specified in subsection (g) of this section.

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

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

31 [~~(1) Continuing education requirements for certain categories.~~]

1 ~~[(A) Certificate holders who hold only a Category D, F, G, J, or K certificate as~~
2 ~~of the effective date of this section shall have completed their initial continuing education requirement by~~
3 ~~May 31, 2005. Beginning September 1, 2005, Category M and recreational vehicle technician certificate~~
4 ~~holders shall have completed their initial continuing education requirement by May 31, 2006. Certificate~~
5 ~~holders who hold a Category D, F, G, J, K, or M certificate or a recreational vehicle technician certificate~~
6 ~~and who have more than one certification as of February 1, 2001, shall complete their continuing~~
7 ~~education requirement by the continuing education deadline assigned for the initial certificate. Public~~
8 ~~employees who were certified as of June 1, 2006, shall have completed their continuing education~~
9 ~~requirement by May 31, 2007.]~~

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

16 (4) ~~[(2)]~~ Certificate holders who attend a course [class] offered by an outside instructor
17 shall not be entitled to a refund of the annual renewal fee or any other fees or penalties required by the
18 Commission.

19 (5) ~~[(3)]~~ Certificate holders [Individuals] who have not paid the annual certificate
20 renewal fee, including general installers and repairman exemption holders or members of the general
21 public~~[, shall not attend training or continuing education classes free of charge, but]~~ may ~~[request from~~
22 ~~the AFRED training section to]~~ attend courses [classes] at the charge specified in §9.51 of this title
23 ~~[(relating to General Requirements for Training and Continuing Education)]~~. A request to attend a course
24 [Such requests] shall be in writing, submitted to the AFS training section, and granted [handled] at AFS'
25 [AFRED's] discretion on an individual basis and if space is available [in the requested class].

26 (6) ~~[(4)]~~ Any certificate holder who has timely paid the annual certificate renewal fee but
27 is not otherwise required to attend a Commission continuing education course [class] may voluntarily
28 attend a course [class], if space is available, by registering with the AFS [AFRED] training section as
29 specified in §9.51 of this title ~~[(relating to General Requirements for Training and Continuing~~
30 ~~Education)]~~.

31 (c) Adding a new certification. A current certificate holder who successfully completes an

1 examination for an additional certification that requires completion of a training course shall be assigned
2 a training deadline pursuant to subsection (a)(2) and (3) [~~(a)(1)~~] of this section. Upon completion of the
3 required training, the certificate holder shall be assigned a continuing education date pursuant to
4 subsection (b) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (h) Available training and ~~[eourses. Training and]~~ continuing education courses ~~[and other-~~
30 ~~information]~~ are shown in Tables 1 through 4 of this subsection. Items on the tables marked with an "x"
31 indicate courses that meet training or continuing education requirements for management-level or

1 employee-level certificate holders in that category.

2 Figure: 16 TAC §9.52(h) (No change.)

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

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

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

12 (3) To receive credit toward the Commission's continuing education requirements, the
13 certificate holder shall submit the following information, clearly readable to AFS: ~~[by regular mail to AFRED,
14 Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967 by electronic mail to the
15 following address: training-exams@rrc.texas.gov.]~~

16 (A) the individual's full name, address, and telephone number~~[, Social Security
17 number];~~

18 (B) a copy of the certificate holder's certificate ~~[the LP-gas certification(s)-
19 currently held];~~ and

20 (C) ~~[the CETP class date and]~~ a legible ~~[readable]~~ copy of the official CETP
21 course ~~[class]~~ certificate ~~[for an approved CETP class as specified in Tables 3 and 4 of subsection (h) of
22 this section. The CETP class attendance date shall be within one year of the certificate holder's continuing
23 education deadline].~~

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

26 (A) If the material is incomplete, AFS ~~[AFRED]~~ shall identify the necessary
27 additional information required.

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

30 (C) Certificate holders requesting credit for CETP course ~~[class]~~ attendance shall
31 submit such requests to allow processing time so that a request is finally approved by May 31 in order for

1 the certificate holder to receive credit toward that deadline.

2
3
4 §9.54. Commission-Approved Outside Instructors.

5 (a) General.

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

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

13 (B) Authorized Category E outside instructors may offer only the applicable
14 training and continuing education courses [~~classes~~] to Category D or K management-level applicants and
15 to DOT [~~portable~~] cylinder filler [~~filling~~], motor/mobile fuel filler [~~dispenser~~], bobtail driver, service and
16 installation technician, and appliance service and installation technician applicants and employee-level
17 certificate holders.

18 (C) Authorized Category I outside instructors may offer only the applicable
19 training and continuing education courses [~~classes~~] to [~~Category F, G, I, and J management level~~
20 ~~certificate holders and~~] DOT cylinder filler [~~filling~~] and motor/mobile fuel filler [~~dispenser~~] applicants
21 and employee-level certificate holders.

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

25 (2) (No change.)

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

29 (4) Copies of the AFS [~~AFRED~~] curricula and materials are available from AFS
30 [~~AFRED~~] at a reasonable cost.

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

1 [AFRED]:

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

3 (2) a copy of the applicant's Category D, E, I, or M current certificate [~~certification card~~]

4 or, in the case of Category D only, a copy of the master or journeyman plumber/class A or B

5 [~~registration/examination~~] exemption card [~~certificate~~] issued under §9.13 of this title (relating to General

6 Installers and Repairman Exemption) [~~by AFRED~~];

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

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

9 (B) the course materials and related supporting information or a statement that
10 the instructor will use the AFS [~~AFRED~~] course materials;

11 (C) a statement specifying whether the outside instructor seeks approval to
12 certify any AFT described in §9.52 of this title (relating to training and continuing education courses);

13 (4) – (5) (No change.)

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

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

28 (e) Additional requirements for approval. Outside instructor applicants whose applications are
29 approved in writing by AFS [~~AFRED~~] shall attend AFS' [~~AFRED's~~] Train-the-Trainer Course, the fee for
30 which is included in the \$300 registration fee. The Train-the-Trainer Course shall include classroom
31 instruction and the subject-matter examinations for each course for which the applicant seeks approval to

1 conduct. An outside instructor applicant shall pass the subject-matter examination for each course with a
2 score of at least 85 percent and shall attend the subject-matter courses for which the applicant seeks
3 approval to conduct.

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

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

10 (h) Renewal of approval. To continue offering AFS-approved [~~AFRED-approved~~] LP-gas courses
11 [~~classes~~], an outside instructor shall renew his or her AFS outside instructor [~~AFRED~~] approval every
12 three years by paying a nonrefundable \$50 renewal fee to AFS [~~AFRED~~] and attending a Train-the-
13 Trainer refresher course [~~class~~] prior to the outside instructor's next renewal deadline.

14 (i) Revision of course materials.

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

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

22 (3) An outside instructor [~~, and~~] shall not use [~~the~~] materials in a course until the outside
23 instructor has received written AFS [~~AFRED~~] approval.

24 (4) AFS [~~AFRED~~] shall review the revised course materials and, within 14 business days,
25 shall notify the outside instructor in writing that the revised course materials are approved or not
26 approved.

27 (5) If the revised course materials are not approved, AFS' [~~AFRED's~~] notice shall identify
28 the portion or portions that are not approved and/or shall describe any deficiencies in the revised course
29 materials. The outside instructor shall file any necessary additional information within 30 calendar days
30 of the date of AFS' [~~AFRED's~~] notice of disapproval. The outside instructor's failure to file the necessary
31 additional information within the prescribed time period may result in the dismissal of the outside

1 instructor's request for approval of revised course materials and the necessity of again paying the \$100
2 review fee for each subsequent filing of revised course materials.

3 (j) Continuing requirements. Outside instructors shall:

4 (1) maintain their Category D, E, I, or M certificate or Category D exemption
5 ~~[registration/examination exemption certificate]~~ in continuous good standing. The Train-the-Trainer
6 course ~~[class]~~ shall not count as credit towards any training or continuing education requirements. Any
7 interruption of the required Category D, E, I, or M certificate ~~[certification]~~ or Category D exemption
8 ~~[registration/examination exemption certificate]~~ may result in the Commission revoking or suspending the
9 outside instructor's approval;

10 (2) adhere to professional standards of conduct in course ~~[class]~~ presentations; and

11 (3) report to AFS ~~[AFRED]~~ within three business days of the conclusion of a course
12 ~~[class]~~ the names, social security numbers or RRC identification numbers, and any other information
13 required by AFS ~~[AFRED]~~, of the persons completing the course ~~[class]~~. The report shall be made
14 electronically ~~[by electronic mail (e-mail) in an electronic format provided by AFRED]~~. The outside
15 instructor shall ensure that AFS ~~[AFRED]~~ receives the report by securing written acknowledgment of its
16 receipt by AFS ~~[AFRED]~~. ~~[This acknowledgment may be by return electronic mail (e-mail) or by~~
17 ~~facsimile transmission (fax).]~~

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

28 (l) Complaints.

29 (1) Complaints regarding outside instructors shall be made to AFS ~~[AFRED]~~ in writing
30 by email, fax ~~[electronic mail (e-mail), facsimile transmission (fax)]~~, or U.S. Postal Service; shall include
31 the printed name, address, telephone number, and, if filed by fax or U.S. Postal Service, the signature of

1 the person complaining; shall state the outside instructor's name, the date, location, and title of the course;
2 and shall describe the facts that show ~~[set forth the facts that the complainant alleges demonstrate that]~~ the
3 outside instructor:

4 (A) failed to meet or maintain AFS ~~[AFRED]~~ requirements for outside instructor
5 approval;

6 (B) – (C) (No change.)

7 (2) Upon receipt of a complaint and at its discretion, AFS ~~[AFRED]~~ may gather any
8 additional information necessary or appropriate to making a full and complete analysis of the complaint.
9 AFS ~~[AFRED]~~ shall send ~~[deliver]~~ a written copy of the analysis and any findings ~~[by certified mail]~~ to
10 the outside instructor who is the subject of the complaint. The outside instructor may file a written
11 response within 20 calendar days from the date the findings are postmarked.

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

17 (4) AFS ~~[AFRED]~~ shall send ~~[mail]~~ a written copy of the report and recommendation to
18 the outside instructor ~~[by certified mail]~~ and shall include a statement that the outside instructor has a
19 right to a hearing on the determination contained in the report.

20 (5) (No change.)

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

23 (7) If an outside instructor requests a hearing or fails to respond timely to the notice given
24 under paragraph (5) of this subsection, the AFS ~~[AFRED]~~ director shall refer the matter to the Hearings
25 Division ~~[the Office of General Counsel for the setting of a hearing. The Office of General Counsel shall~~
26 ~~assign an examiner to conduct a hearing, which shall be conducted under the Commission's General Rules~~
27 ~~of Practice and Procedure, Chapter 1 of this title (relating to Practice and Procedure)]~~.

28 (8) – (9) (No change.)

29
30 SUBCHAPTER B. LP-GAS INSTALLATIONS, CONTAINERS, APPURTENANCES, AND
31 EQUIPMENT REQUIREMENTS

- 1
2 §9.101. Filings Required for Stationary LP-Gas Installations.
- 3 (a) General requirements. No LP-gas container shall be placed into LP-gas service or an
4 installation operated or used in LP-gas service until the requirements of this section, as applicable, are met
5 and the facility is in compliance with all applicable rules in this chapter [~~LP-Gas Safety Rules~~] and
6 statutes[~~, in addition to any applicable requirements of the municipality or the county where an~~
7 ~~installation is or will be located~~]. LP-gas systems under the jurisdiction of DOT Safety regulations in 49
8 CFR Parts 192 and 199, and Part 40 shall comply with Chapter 8 of this title (relating to Pipeline Safety
9 Regulations) prior to implementation of service.
- 10 (b) Commercial installations with an aggregate water capacity of less than 10,000 gallons.
- 11 (1) Within 30 calendar days following the completion of a container installation, the
12 licensee shall submit LPG Form 501 to AFS [~~LP-Gas Operations~~] stating:
- 13 (A) the installation fully complies [~~is in total compliance~~] with the statutes and
14 the rules in this chapter [~~LP-Gas Safety Rules~~];
- 15 (B) all necessary Commission [~~LP-gas~~] licenses, [~~and~~] certificates, and permits
16 have been issued; and
- 17 (C) the date the installation has been placed into LP-gas service.
- 18 (2) The licensee shall pay [~~Pay~~] a nonrefundable fee of \$10 for each LP-gas container,
19 including cylinders, each retail LP-gas cylinder exchange storage rack, and each forklift cylinder
20 exchange rack or a forklift cylinder exchange installation where a storage rack is not installed that is listed
21 on the form. A nonrefundable \$35 fee shall be required for any resubmission.
- 22 (3) AFS [~~LP-Gas Operations~~] shall review the submitted information within 21 business
23 days of receipt of all required information and shall notify the applicant in writing of any deficiencies.
24 LP-gas activities [~~operations~~] may commence prior to the submission of LPG Form 501 if the facility is in
25 compliance with the rules in this chapter [~~LP-Gas Safety Rules~~].
- 26 (c) Aggregate water capacity of 10,000 gallons or more.
- 27 (1) For installations with an aggregate water capacity of 10,000 gallons or more, the
28 licensee shall submit the following information to AFS [~~LP-Gas Operations~~] at least 30 days prior to
29 construction if the applicant is required to give notice as described in §9.102 of this title (relating to
30 Notice of Stationary LP-Gas Installations):
- 31 (A) - (C) (No change.)

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

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

4 (ii) the distances from the containers [~~and the transfer system~~] to
5 adjoining [~~the~~] property lines, buildings, and railroad, pipeline, or roadway rights-of-way;

6 (iii) - (vii) (No change.)

7 (viii) distance and location to nearest highway[~~;~~]; and

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

12 (F) [~~pay~~] a nonrefundable fee of \$50 for the initial application, or a [~~-A~~]
13 nonrefundable \$30 fee [~~shall be required~~] for any resubmission.

14 (2) Prior [~~In addition to NFPA 58, §6.5.4 prior~~] to the installation of any individual LP-
15 gas container, AFS [~~LP-Gas Operations~~] shall determine whether the proposed installation constitutes a
16 danger to the public health, safety, and welfare.

17 (A) AFS [~~LP-Gas Operations~~] may impose restrictions or conditions on the
18 proposed LP-gas installation based on one or more of the following factors:

19 (i) - (iv) (No change.)

20 (v) type of activities [~~operations~~] on the installation's premises;

21 (vi) - (viii) (No change.)

22 (B) (No change.)

23 [~~(3) If an LP-gas stationary installation, equipment, or appurtenances not specifically~~
24 ~~covered by the LP-Gas Safety Rules has been or will be installed, LP-Gas Operations shall apply and~~
25 ~~require any reasonable safety provisions to ensure the LP-gas installation is safe for LP-gas service. If the~~
26 ~~affected entity disagrees with LP-Gas Operations' determination, the entity may request a hearing. The~~
27 ~~installation shall not be placed into LP-gas operation until LP-Gas Operations has determined that the~~
28 ~~installation is safe for LP-gas service.]~~

29 (3) [(4)] AFS [~~LP-Gas Operations~~] shall notify the applicant in writing of [~~outlining~~] its
30 findings.

31 (4) If the application is administratively denied: [~~;~~]

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

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

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

10 ~~[(6) If the subject installation is not completed within one year from the date of LP-Gas~~
11 ~~Operations' completed review, the requirements of this subsection shall be resubmitted for LP-Gas~~
12 ~~Operations' review.]~~

13 (6) The applicant shall submit to AFS written notice of completed construction and the
14 Commission shall complete the [Upon completion of a] field inspection [as] specified in §9.109 of this
15 title (relating to Physical Inspection of Stationary LP-Gas Installations)[, the operator, pending the
16 inspection findings, may commence LP-gas operations of the facility].

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

19 (8) [(4)] An applicant or operator shall not be required to submit LPG Form 500, LPG
20 Form 500A, or a site plan prior to the installation of bulkheads, swivel-type piping, breakaway devices,
21 pneumatically-operated internal valves, or emergency shutoff valves, or when maintenance and
22 improvements are being made to the piping system at an existing LP-gas installation with an aggregate
23 water [a] capacity of 10,000 gallons or more.

24 (10) [(e)] If a licensee is replacing a container with a container of the same or less overall
25 [length and] diameter and length or height, and is installing the replacement container [installed] in the
26 identical location of the existing container, the licensee shall file LPG Form 500.

27 (d) [(f)] AFS [In addition, LP-Gas Operations] may request LPG Form 8, a Manufacturer's Data
28 Report, or any other documentation or information pertinent to the installation in order to determine
29 compliance with the rules in this chapter [LP-Gas Safety Rules].

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

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§9.102. Notice of Stationary LP-Gas Installations.

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

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

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

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

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

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

(3) AFS [LP-Gas Operations] considers notice to be in the public interest.

(c) (No change.)

§9.103. Objections to Proposed Stationary LP-Gas Installations.

(a) Each owner of real property [~~situated within 500 feet of the proposed location of any LP-gas containers of 10,000-gallon aggregate water capacity or more~~] receiving notice of a proposed installation pursuant to §9.102(a) of this title (relating to Notice of Stationary LP-Gas Installations) shall have 18 calendar days from the date the notice is postmarked to file a written objection with AFS using the LPG Form 500A sent to them by the applicant [~~as described in §9.102 of this title (relating to Notice of Stationary LP-Gas Installations) with LP-Gas Operations~~]. An objection is considered timely filed when it is actually received by the Commission.

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

1 (1) does not comply with the rules in this chapter [~~LP-Gas Safety Rules~~], specifying
2 which rules are violated;

3 (2) - (3) (No change.)

4 (c) Upon review of the objection, AFS [~~LP-Gas Operations~~] shall [~~either~~]:

5 (1) request[~~schedule~~] a public hearing as specified in §9.107 of this title (relating to
6 Hearings on Stationary LP-Gas Installations); or

7 (2) notify the objecting party in writing within 10 business days of receipt requesting
8 further information for clarification and stating why the objection is not valid [~~being returned~~]. The
9 objecting entity shall have 10 calendar days from the postmark of AFS' [~~LP-Gas Operations'~~] letter to file
10 its corrected objection. Clarification of incomplete or nonsubstantive objections shall be limited to two
11 opportunities. If new objections are raised in the objecting party's clarification, the new objections shall
12 be limited to one notice of correction.

13
14 §9.107. Hearings on Stationary LP-Gas Installations.

15 (a) Reason for hearing. AFS [~~LP-Gas Operations~~] shall request [~~call~~] a public hearing if:

16 (1) the notice given to each real property owner situated within 500 feet of the proposed
17 installation does not meet the requirements set forth in §9.102(a) of this title (relating to Notice of
18 Stationary LP-Gas Installations);

19 (2) AFS [~~LP-Gas Operations~~] receives an objection that complies with §9.103 of this title
20 (relating to Objections to Proposed Stationary LP-Gas Installations); or

21 (3) AFS [~~LP-Gas Operations~~] determines that a hearing is necessary to investigate the
22 impact of the installation.

23 (b) Notice of public hearing. The Hearings Division [~~LP-Gas Operations~~] shall give notice of the
24 public hearing at least 21 calendar days prior to the date of the hearing to the applicant and to all real
25 property owners who were required to receive notice of the proposed installation under §9.102 of this title
26 (relating to Notice of Stationary LP-Gas Installations).

27 (c) Procedure at hearing. The public hearing shall be conducted pursuant to Chapter 1 of this title
28 (relating to Practice and Procedure [~~in accordance with the Texas Government Code, Chapter 2001 et~~
29 ~~seq., the general rules of practice and procedure of the Railroad Commission of Texas, and the LP-Gas~~
30 ~~Safety Rules~~].

31

1 §9.108. Interim Approval Order for Stationary LP-Gas Installations.

2 If the Commission finds after a public hearing that the proposed installation complies with the
3 rules in this chapter [LP-Gas Safety Rules] and the statutes of the State of Texas, and does not constitute a
4 danger to the public health, safety, and welfare, the Commission shall issue an interim approval order.

5 The construction of the installation and the setting of the container shall not proceed until the applicant
6 has received written notification of the interim approval order. Any interim approval order shall include a
7 provision that such approval may be suspended or revoked if:

8 (1) the applicant has introduced LP-gas into the system prior to final approval; ~~[or]~~

9 (2) a physical inspection of the installation indicates that it is not installed in compliance
10 with the submitted plan [plat] drawing for the installation, the rules in this chapter [LP-Gas Safety Rules]
11 or the statutes of the State of Texas; or

12 (3) the installation constitutes a danger to the public health, safety, and welfare.

13
14 §9.109. Physical Inspection of Stationary LP-Gas Installations.

15 (a) Aggregate water capacity of 10,000 gallons or more. The applicant shall notify AFS [LP-Gas-
16 Operations] in writing when the installation is ready for inspection. ~~[If LP-Gas Operations does not~~
17 ~~physically inspect the facility within 30 calendar days of receipt of notice that the facility is ready for~~
18 ~~inspection, the facility may operate conditionally until the initial complete inspection is made.]~~

19 (1) If any non-compliance items are cited [safety rule violations exist] at the time of AFS'
20 [LP-Gas Operations'] initial inspection, the installation shall not be placed in LP-gas service [may be
21 required to cease LP-gas operations] until the non-compliance items [violations] are corrected, as
22 determined at the time of inspection depending on the nature of the non-compliance items cited.

23 (2) If AFS does not physically inspect the facility within 30 calendar days of receipt of
24 notice that the facility is ready for inspection, the facility may operate conditionally until the initial
25 inspection is completed.

26 (b) Aggregate water capacity of less than 10,000 gallons. After receipt of LPG Form 501, AFS
27 [LP-Gas Operations] shall conduct an inspection as soon as possible to verify that the installation
28 described is in compliance with the rules in this chapter [LP-Gas Safety Rules]. The facility may be
29 operated prior to inspection if it is in compliance with the rules in this chapter [LP-Gas Safety Rules]. If
30 the initial [any LP-gas statute or safety rule violation exists at the time of the first] inspection at a
31 commercial installation results in the citation of non-compliance items, AFS may require that the subject

1 container, including any piping, appliances, appurtenances, or equipment connected to it, ~~may~~ be
2 immediately removed from LP-gas service until the non-compliance items ~~[violations]~~ are corrected.

3 (c) Material variances. If AFS ~~[LP-Gas-Operations]~~ determines the completed installation varies
4 materially from the application originally accepted, correction of the variance and notification to AFS
5 ~~[LP-Gas-Operations]~~ or resubmission of the application is required. The review of such resubmitted
6 application shall comply with §9.101 of this title ~~[(relating to Filings Required for Stationary LP-Gas-~~
7 ~~Installations)]~~.

8 (d) In the event an applicant has requested an inspection and AFS' ~~[LP-Gas-Operations]~~
9 inspection identifies non-compliance items ~~[violations]~~ requiring modifications by the applicant, AFS
10 ~~[LP-Gas-Operations]~~ shall consider the assessment of an inspection fee to cover the costs associated with
11 any additional inspection, including mileage and per diem rates set by the legislature.

12
13 §9.110. Emergency Use of Proposed Stationary LP-Gas Installations.

14 When there is an immediate need for LP-gas supply under emergency circumstances, AFS ~~[LP-~~
15 ~~Gas-Operations]~~ may waive the requirement for the initial ~~[complete]~~ inspection for a limited time period
16 in order to meet the emergency need. LP-gas shall not be introduced into the container and it shall not be
17 placed into LP-gas service until AFS ~~[LP-Gas-Operations]~~ grants permission to do so.

18
19 §9.113. Installation and Maintenance.

20 In addition to NFPA 58 §6.21.1, all ~~[AH]~~ LP-gas storage containers, valves, dispensers,
21 accessories, piping, transfer equipment, gas utilization equipment, and appliances shall be installed and
22 maintained in safe working order and in accordance with the manufacturer's instructions and the rules in
23 this chapter ~~[LP-Gas-Safety-Rules]~~. If any one of the LP-gas storage containers, valves, dispensers,
24 accessories, piping, transfer equipment, gas utilization equipment, and appliances is not in safe working
25 order, AFS ~~[LP-Gas-Operations]~~ may require that the installation be immediately removed from LP-gas
26 service and not be operated until the necessary repairs have been made.

27
28 §9.114. Odorizing and Reports.

29 (a) Odorization shall comply with NFPA 58, §4.2.

30 (b) If AFS ~~[LP-Gas-Operations]~~ determines that there may ~~[shall]~~ be insufficient odorization,
31 AFS ~~[LP-Gas-Operations]~~ may require testing ~~[as deemed necessary to determine its sufficiency]~~. If

1 testing is deemed necessary, AFS [~~LP-Gas Operations~~] shall notify the necessary parties in writing as
2 soon as possible. The written notification will advise which entity is responsible for having the tests
3 performed and paying for the tests to be conducted. The testing shall be performed by a recognized testing
4 laboratory equipped for and experienced in testing of odorization and, if requested, a copy of the test
5 results shall be provided to AFS [~~LP-Gas Operations~~].

6 (c) The person or facility odorizing the gas or the operator of an automatic loading rack shall be
7 responsible for the odorization.

8
9 §9.115. Examination and Testing of Containers.

10 (a) In order to determine the safety of a container, AFS [~~LP-Gas Operations~~] may require that the
11 licensee or operator of the container submit [~~send~~] a copy of the manufacturer's data report on that
12 container [~~to LP-Gas Operations~~]. AFS [~~LP-Gas Operations~~] may also require that the container and
13 equipment be examined by a Category A, B, or O licensee, with a comprehensive report on the findings
14 submitted to AFS [~~LP-Gas Operations~~] for its consideration. This subsection may be applied even though
15 an acceptable LPG Form 23 has been received.

16 (b) Any stationary ASME LP-gas container previously in LP-gas service which has not been
17 subject to continuous LP-gas vapor pressure shall be retested by an authorized Category A, B, or O
18 licensed entity utilizing recognized ASME test methods to determine if the container is safe for LP-gas
19 use in Texas, and the test results shall be submitted to AFS [~~LP-Gas Operations~~] on LPG Form 8.

20 (c) Any stationary ASME LP-gas container which has been subject to continuous LP-gas vapor
21 pressure is not required to be tested prior to installation, provided the licensee or operator of the container
22 files a [~~properly~~] completed LPG Form 23 with AFS [~~LP-Gas Operations~~] at the time LPG Form 500 is
23 submitted for any facility requiring submission of a site plan in accordance with §9.101 of this title
24 (relating to Filings Required for Stationary LP-Gas Installations).

25 (d) Any stationary ASME LP-gas container brought into Texas from out-of-state and intended for
26 stationary LP-gas installation in Texas at any facility requiring submission of a site plan shall be tested in
27 accordance with subsection (b) of this section prior to review approval being granted by AFS [~~LP-Gas~~
28 ~~Operations~~], unless that container is owned by a valid licensee. In this case, AFS [~~LP-Gas Operations~~]
29 may determine that such tests are not necessary upon the receipt of an acceptable LPG Form 23 from the
30 licensee.

31

1 §9.116. Container Corrosion Protection System.

2 (a) In addition to NFPA 58, §§5.2.1.11, 6.8.6.1(I), 6.8.6.2(A), 6.8.6.3(F), 6.11.3.14 and 6.19.2
3 [~~§§6.6.6.1(H), 6.6.6.2(1), and 6.6.6.3(4)~~], steel containers and piping systems installed underground,
4 partially underground, or as mounded installations on or after March 1, 2014, shall include a corrosion
5 protection system.

6 [~~(b) A corrosion protection system shall include the following:~~]

7 [(1) a container coated with a material recommended for the service that is applied in
8 accordance with the manufacturer's instructions;]

9 [(2) a cathodic protection system that consists of one or more sacrificial anodes or an
10 impressed current anode; and]

11 [(3) a means to test the performance of the cathodic protection system.]

12 (b) [(e)] Cathodic protection systems installed on or after March 1, 2014 [~~in accordance with this~~
13 ~~section~~] shall be monitored by every licensee servicing the container in accordance with NFPA 58,
14 §6.19.3.1 through 6.19.3.3. Such licensees shall document the test results. [~~A successful test shall be~~
15 ~~confirmed by one of the following results:~~]

16 [(1) producing a voltage of ~~0.85~~ volts or more negative, with reference to a saturated
17 copper-copper sulfate half cell;]

18 [(2) producing a voltage of ~~0.78~~ volts or more negative, with reference to a saturated
19 potassium-chloride calomel half cell;]

20 [(3) producing a voltage of ~~0.80~~ volts or more negative, with reference to a silver-silver
21 chloride half cell; or]

22 [(4) results obtained through any other method described in Appendix D of Title 49 of the
23 Code of Federal Regulations, Part 192.]

24 [(d) Sacrificial anodes installed in accordance with subsection (b) of this section shall be tested in
25 accordance with the following schedule:]

26 [(1) upon installation of the cathodic protection system, unless prohibited by climatic
27 conditions, in which case testing shall be completed within 180 days after the installation of the system;]

28 [(2) for continued verification of the effectiveness of the system, 12 to 18 months after
29 the initial test;]

30 [(3) upon successful verification of test results for the tests required in paragraphs (1) and
31 (2) of this subsection, periodic follow-up testing shall be performed at intervals not to exceed 36 months;]

1 ~~[(4) Systems which fail a test prescribed in paragraphs (1) and (2) of this subsection shall~~
2 ~~be repaired as soon as practical unless climatic conditions prevent such repair, in which case the repair~~
3 ~~shall be made not more than 180 days thereafter. Systems which fail a test and for which repairs have~~
4 ~~been made shall comply with the initial and follow-up testing requirements in paragraphs (1) and (2) of~~
5 ~~this subsection, and the results shall comply with subsection (c) of this section.]~~

6 ~~[(e) Where an impressed current cathodic protection system is installed in accordance with~~
7 ~~subsection (b) of this section, the licensee shall inspect and test the system in accordance with the~~
8 ~~following schedule:]~~

9 ~~[(1) all sources of impressed current at intervals not exceeding two months; and]~~

10 ~~[(2) all impressed current cathodic protection installations annually.]~~

11 ~~(c) [(f)]~~ The licensee shall retain documentation of test results in accordance with §9.4 of this title
12 (relating to Records ~~[and Enforcement]~~).

13 ~~[(g) The licensee shall visually examine a container prior to its burial for damage to the coating.~~
14 ~~Damaged areas shall be repaired with a coating recommended for underground service and compatible~~
15 ~~with the existing coating.]~~

16 ~~[(h) Partially underground, unrounded containers shall be installed so the aboveground portion~~
17 ~~of the container complies with NFPA 58 §6.6.1.4.]~~

18 ~~(d) [(i)]~~ Steel containers and piping systems installed underground, partially underground, or as
19 mounded installations on or after March 1, 2014, shall not be filled unless a cathodic protection system is
20 installed in accordance with this section.

21 ~~[(j) Metallic piping and tubing that convey LP-gas from an underground, partially buried, or~~
22 ~~mounded storage container shall be installed with dielectric fittings to electrically isolate the container~~
23 ~~from the aboveground portion of the fixed piping system that enters a building.]~~

24
25 §9.126. Appurtenances and Equipment.

26 (a) All appurtenances and equipment placed into LP-gas service shall be listed by a nationally
27 recognized testing laboratory such as Underwriters Laboratory (UL), Factory Mutual (FM), or American
28 Gas Association (AGA) unless:

29 (1) it is specifically prohibited for use by another section of the rules in this chapter [~~LP-~~
30 ~~Gas Safety Rules~~];

31 (2) – (3) (No change.)

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

5 (c) The licensee or operator of the appurtenances or the equipment shall maintain documentation
6 sufficient to substantiate any claims regarding the safety of any valves, fittings, and equipment and shall,
7 upon request, furnish copies to AFS [~~LP-Gas Operations~~].

8 (d) ASME containers with an individual water capacity over 4,000 gallons shall comply with
9 paragraph (1) or (2) of this subsection:

10 (1) For container openings 1 1/4-inch or greater in size:

11 (A) the container shall be equipped with:

12 (i) a pneumatically operated internal valve equipped for remote closure
13 and automatic shutoff using thermal (fire) actuation where the thermal element is located within five feet
14 (1.5 meters) of the internal valve;

15 (ii) a double back flow check filler valve; or

16 (iii) a positive shutoff valve in combination with a back flow check
17 valve;

18 (B) Any vapor or liquid withdrawal opening 1 1/4-inch or larger with piping
19 attached that exclusively provides service to stationary appliances or equipment and which is not part of a
20 transfer system may be equipped with an excess flow valve and a shutoff valve installed as close as
21 practical to the container in lieu of an internal valve or emergency shutoff valve;

22 (C) For reducing the size of a container opening, only one bushing with a
23 minimum pressure rating in accordance with NFPA 58 Table 5.11.4.2 shall be installed;

24 (D) Container openings that are not compatible with internal valves shall be
25 permitted to utilize both an excess-flow valve installed in the container and an emergency shutoff valve or
26 a valve complying with API 607, *Fire Test Soft-Seated for Quarter Turn Ball Valves Equipped with Non-*
27 *Metallic Seats*, which shall be pneumatically actuated and shall fail in the closed position.

28 (2) For container openings less than 1 1/4-inch in size, the container shall be equipped
29 with:

30 (A) a positive shutoff valve that is located as close to the container as practical in
31 combination with either an excess-flow valve or a back flow check valve installed in the container;

1 (B) a pneumatically operated internal valve with an integral excess-flow valve or
2 excess-flow protection; or

3 (C) a double back flow check filler valve.
4

5 §9.129. Manufacturer's Nameplate and Markings on ASME Containers.

6 (a) - (c) (No change.)

7 (d) Nameplates on stationary ASME containers built prior to September 1, 1984, shall include at
8 least the following legible information:

9 (1) the name of container manufacturer;

10 (2) the manufacturer's serial number;

11 (3) the container's working pressure; ~~and~~

12 (4) the container's water capacity; and

13 (5) the ASME Code symbol.

14 (e) Nameplates on stationary ASME containers built on or after September 1, 1984, shall be
15 stainless steel and permanently attached to the container by continuous fusion welding around the
16 perimeter of the nameplate, and shall be stamped or etched with the ~~[following]~~ information required by
17 NFPA 58, §5.2.8.3(C) and §11.3.4(B) in characters at least 5/32 inch high[;]

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

19 ~~[(2) name and address of container supplier or trade name of container;]~~

20 ~~[(3) water capacity of container in pounds or U.S. gallons;]~~

21 ~~[(4) design pressure in pounds per square inch;]~~

22 ~~[(5) the wording "This container shall not contain a product that has a vapor pressure in 4~~
23 ~~excess of _____ psi at 100 degrees F";]~~

24 ~~[(6) outside surface area in square feet;]~~

25 ~~[(7) year of manufacture;]~~

26 ~~[(8) shell thickness and head thickness;]~~

27 ~~[(9) overall length of the container, the outside diameter of the container, and dish radius~~
28 ~~of the heads;]~~

29 ~~[(10) manufacturer's serial number;]~~

30 ~~[(11) ASME Code symbol;]~~

31 ~~[(12) minimum design metal temperature _____ F degrees at MAWP _____ psi;]~~

1 [(13) type of construction "W"; and]

2 [(14) degree of radiography "RT _____"].

3 (f) Any replacement nameplate issued by an original container manufacturer for containers
4 constructed prior to September 1, 1984, shall be stainless steel and shall be affixed in accordance with
5 ASME Code. The owner or operator of the container shall ensure that a copy of LPG Form 8 is filed with
6 AFS [~~LP-Gas Operations~~] when a replacement nameplate is affixed.

7 (g) - (h) (No change.)

8 (i) AFS [~~LP-Gas Operations~~] may remove a container from LP-gas service or require ASME
9 acceptance of a container at any time if AFS [~~LP-Gas Operations~~] determines that the nameplate, in any
10 form defined in subsection (a)(1) -(4) of this section, is loose, unreadable, or detached, or if it appears to
11 be tampered with or damaged in any way and does not contain at a minimum the items defined in
12 subsection (d) of this section.

13
14 §9.130. Commission Identification Nameplates.

15 (a) Prior to an original ASME nameplate or any manufacturer-issued nameplate becoming
16 unreadable or detached from a stationary container with a water capacity of 4,001 gallons or more, the
17 owner or operator of the container may request an identification nameplate from AFS [~~LP-Gas~~
18 ~~Operations~~]. Commission identification nameplates shall be issued only for containers which can be
19 documented as being in continuous LP-gas service in Texas from a date prior to September 1, 1984. The
20 container's serial number and manufacturer on the original or manufacturer-issued nameplate shall be
21 clearly readable at the time the Commission identification nameplate is attached.

22 (1) (No change.)

23 (2) AFS [~~LP-Gas Operations~~] shall review LPG Form 502 and the supporting
24 documentation. AFS [~~LP-Gas Operations~~] shall have the manufacturer's data report on file for the
25 container or the licensee shall provide a copy to LP-Gas Operations. The Commission identification
26 nameplate shall not be issued unless the manufacturer's data report is reviewed. Upon review of submitted
27 documents and confirmation of the manufacturer's data report, LP-Gas Operations shall mail a letter to
28 the owner or operator of the container stating the estimated costs, which will be based on the following:

29 (A) - (B) (No change.)

30 (3) The owner or operator of the container shall pay the total estimated costs to AFS [~~LP-~~
31 ~~Gas Operations~~] before AFS [~~LP-Gas Operations~~] will proceed. Within 15 business days of receipt of all

1 required documents and fees, AFS [~~LP-Gas Operations~~] shall:

2 (A) (No change.)

3 (B) inspect the container to ensure that the container is not dented, pitted, or
4 otherwise damaged, and complies with other applicable rules in this chapter [~~LP-Gas Safety Rules~~],
5 unless additional time is necessary as determined by the AFS [~~LP-Gas Operations~~] director; and

6 (C) advise the owner or operator that the container shall be tested if it appears to
7 be pitted or otherwise damaged.

8 (i) (No change.)

9 (ii) If the container passes the test, AFS [~~LP-Gas Operations~~] shall
10 proceed with the attachment of the nameplate.

11 (D) Within the 15-day period, AFS [~~LP-Gas Operations~~] shall notify the
12 applicant in writing, in clear and specific language, of the outcome of AFS' [~~LP-Gas Operations~~]' review.

13 (4) Following AFS' [~~LP-Gas Operations~~]' review of any required tests and payment [~~of all~~
14 ~~other amounts due in addition to the previously paid estimated costs~~], and if AFS determines that [~~when~~]
15 all requirements have been met, AFS [~~LP-Gas Operations~~] shall issue an identification nameplate for the
16 container.

17 (5) - (6) (No change.)

18 (b) (No change.)

19 (c) Commission identification nameplates shall not be valid until AFS [~~LP-Gas Operations~~] has
20 received the final paperwork from the Commission employee who attached the nameplate. AFS [~~LP-Gas~~
21 ~~Operations~~] shall notify [~~mail a letter to~~] the owner or operator of the container in writing stating the date
22 on which the nameplate is valid.

23 (d) If at any time during the Commission identification nameplate request or approval process,
24 the original ASME nameplate becomes completely unreadable or detached, the owner or operator of the
25 container shall immediately remove the container from service and no Commission identification
26 nameplate shall be issued or attached. In addition, AFS [~~LP-Gas Operations~~] may remove such a
27 container from service as specified in §9.129(i) of this title (relating to Manufacturer's Nameplate and
28 Markings on ASME Containers).

29 (e) (No change.)

30 (f) Fees charged for the Commission identification nameplate are nonrefundable except as
31 described in this subsection. The cost of the nameplate is refundable only if the Commission employee

1 finds upon actual inspection of the container that the original nameplate has become totally detached or
2 unreadable, or that the container is pitted, dented, or otherwise damaged, therefore prohibiting attachment
3 of the nameplate. The fees charged relating to AFS' [~~LP-Gas Operations'~~] travel and research costs will be
4 refunded only if AFS' [~~LP-Gas Operations'~~] research shows that the nameplate cannot be issued.
5 Otherwise, these fees will be nonrefundable if these activities have taken place before the Commission
6 employee inspects a container and finds that a nameplate cannot be issued.

7
8 §9.131. 200 PSIG Working Pressure Stationary Vessels.

9 In addition to NFPA 58, §5.2.4.2 and 5.9.2.5(A), [~~5.7.2.4~~] 200 psig working pressure stationary
10 vessels in LP-gas service in Texas prior to September 1, 1981, may be continued in service for
11 commercial propane provided that they are fitted with pressure relief valves set for 250 psig normal start
12 to discharge and comply with other provisions of this chapter. For the purpose of this section,
13 "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100 degrees
14 Fahrenheit. This section does not apply to LP-gas motor fuel and mobile fuel containers.

15
16 §9.132. Sales to Unlicensed Individuals.

17 A licensee shall not sell LP-gas, an ASME [~~or an LP-gas~~] container, or a DOT cylinder greater
18 than 96 pounds to an unlicensed individual for resale. A licensee shall not sell an LP-gas container to an
19 unlicensed individual for installation without determining that such container will be installed by a
20 licensee authorized to perform such installation.

21
22 §9.134. Connecting Container to Piping.

23 LP-gas piping shall be installed only by a licensee authorized to perform such installation, a
24 registrant authorized by §9.13 of this title (relating to General Installers and Repairman Exemption), or an
25 individual exempted from licensing as authorized by Texas Natural Resources Code, §113.081. A
26 licensee shall not connect an LP-gas container or cylinder to a piping installation made by a person who is
27 not licensed to make such installation, except that connection may be made to piping installed by an
28 individual on that individual's single family residential home. A licensee may connect to piping installed
29 by an unlicensed person provided the licensee has performed a pressure test, verified that the piping is
30 free of leaks and has been installed according to the rules in this chapter [~~LP-Gas Safety Rules~~], and filed
31 with AFS a [~~properly~~] completed LPG Form 22 [~~with LP-Gas Operations~~], identifying the unlicensed

1 person who installed the LP-gas piping.

2
3 §9.135. Unsafe or Unapproved Containers, Cylinders, or Piping.

4 In addition to NFPA 58, §§5.2.1.1 [~~7.2.2.11~~], and 5.2.2, a licensee or the licensee's employees
5 shall not introduce LP-gas into any container or cylinder if the licensee or employee has knowledge or
6 reason to believe that such container, cylinder, piping, or the system or the appliance to which it is
7 attached is unsafe or is not installed in accordance with the statutes or the rules in this chapter [~~LP-Gas~~
8 ~~Safety Rules~~].

9
10 §9.136. Filling of DOT Containers.

11 (a) In addition to NFPA 58 §7.4.2.1, single-opening DOT containers of less than 101 pounds LP-
12 gas capacity [~~other than containers designed to be used on forklift or industrial trucks~~], shall be filled by
13 weight only. The weight of such containers shall be determined by scales that meet the specifications of
14 the National Institute of Standards and Technology's Handbook 44. Scales at licensees' facilities shall be
15 currently registered with the Texas Department of Agriculture. The scales shall have a rated weighing
16 capacity which exceeds the total weight of the cylinders being filled. The scales shall be accurate during
17 the filling of the cylinder. The formula for filling LP-gas containers by weight under this section is as
18 follows:

19 (1) The propane capacity in pounds is determined by multiplying the total water capacity
20 in pounds by .42.

21 (2) The proper scale setting is the total of [Add] the tare weight of the [a] cylinder, the
22 propane capacity in pounds, and [to the liquid weight of the product plus] the weight of the hose and
23 nozzle. [The total weight of these three is the proper scale setting.]

24 (b) Containers designed to be used on forklifts or industrial trucks shall be filled as specified in
25 NFPA 58, §11.13 [~~§11.12~~].

26
27 §9.137. Inspection of Cylinders at Each Filling.

28 In addition to NFPA 58, §§5.2.1.1, 7.2.2.16 [~~7.2.2.11~~], and 5.2.2, before filling a container or
29 cylinder, the individual filling the container or cylinder shall conduct a visual inspection of the exposed,
30 readily accessible areas of the container or cylinder for any obvious defects. Where the container or
31 cylinder is dented, bulged, gouged, or corroded such that the integrity of the container or cylinder is

1 substantially reduced, such container or cylinder shall not be filled.

2
3 §9.140. System [~~Uniform~~] Protection Requirements [~~Standards~~].

4 (a) Stationary LP-gas installations, including LP-gas transfer systems, dispensing systems, and
5 storage containers, shall be protected from tampering and damage as specified in this section. [~~In addition~~
6 ~~to NFPA 58 §6.24.3.14, LP-gas transfer systems and storage containers shall be protected from tampering~~
7 ~~and/or vehicular traffic as specified in this section. New LP-gas containers which have never been~~
8 ~~installed or had LP-gas introduced into them, or other installations listed in paragraphs (1)–(4) of this~~
9 ~~subsection, are not required to comply with the fencing and guard railing requirements in subsections (b)~~
10 ~~and (d) of this section. The fencing and guard railing requirements also do not apply to the following:]~~

11 [~~(1) LP-gas systems and containers located at private residences;]~~

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

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

17 (b) [(4)] LP-gas storage containers located on a rural consumer's property from which motor or
18 mobile fuel containers are filled are not required to comply with the fencing and vehicular barrier
19 protection requirements in subsections (c) and (d) of this section.

20 (c) [(b)] In addition to NFPA 58, §§6.21.4.2, 6.22.3.2(3), 6.27.3.7 [~~§§6.18.4.2, 6.19.3.2, 6.24.3.7,~~
21 ~~7.2.3.8], 8.2.1.1, and 6.5.4.5, [~~and 8.4.2.1~~] fencing at LP-gas installations shall comply with the
22 following:~~

23 [(1) ~~Fencing material shall be chain link with wire at least 12 1/2 American wire gauge in~~
24 ~~size, or industrial type fencing, or material providing equivalent protection as determined by LP-Gas~~
25 ~~Operations.]]~~

26 [(2) ~~Fencing shall be at least six feet in height at all points.]]~~

27 (1) [(3)] Uprights, braces, and cornerposts of the fence shall be composed of
28 noncombustible material.

29 (2) [(4)] Gates in fences where bulkheads are installed shall be located directly in front of
30 the bulkhead. Gates shall be locked whenever the area enclosed is unattended. Gate posts on gates
31 installed directly in front of the bulkhead shall be located at 45-degree angles to the nearest corner of the

1 bulkhead. ~~[There shall be at least two means of emergency access from the fenced enclosure. If guard~~
2 ~~service is provided, it shall be extended to the LP-gas installation. Guard service shall be properly trained~~
3 ~~as set forth in §9.51(b)(4) of this title (relating to General Requirements for Training and Continuing~~
4 ~~Education). However, if a fenced area is not larger than 100 square feet in area, the point of transfer is~~
5 ~~within three feet of a gate, and any containers being filled are not located within the enclosure, a second~~
6 ~~gate shall not be required.]~~

7 ~~[(5) Clearance of at least three feet shall be maintained between the fencing and the~~
8 ~~container and the entire transfer system.]~~

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

13 ~~[(7) The operating end of a container, including the entire transfer system, shall be~~
14 ~~completely enclosed by fencing.]~~

15 ~~[(e) Containers which are exempt from the fencing requirements include:]~~

16 ~~(3) [(4)] ASME containers or manual dispensers originally manufactured to or modified~~
17 ~~to be considered by AFS [LP-Gas Operations] as self-contained units. Self-contained units shall be~~
18 ~~protected as specified in subsection (d) of this section;~~

19 ~~(4) LP-gas containers located at a private residence are exempt from the fencing~~
20 ~~requirements.~~

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

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

25 (d) In addition to NFPA 58, §§6.8.1.2, 6.8.6.1(A)-(E), 6.8.6.2(F), 6.27.3.13 and 6.27.3.14,
26 vehicular barrier protection ~~[§§6.6.1.2, 6.6.6.1(a)-(d), 6.6.6.2(6), 6.18.4.2, 6.24.3.12, and 8.4.2,~~
27 guardrails] at LP-gas installations, except as noted in this section ~~[subsection (a) of this section],~~ shall
28 comply with the following:

29 ~~[(1) In addition to NFPA 58 §6.18.4.2(e), where fencing is not used to protect the~~
30 ~~installation as specified in subsection (b) of this section, locks for the valves or other suitable means shall~~
31 ~~be provided to prevent unauthorized withdrawal of LP-gas, and guardrailing specified in paragraphs (2)-~~

1 ~~(6) of this subsection, or protection considered by LP-Gas Operations to be equivalent, shall be required.]~~

2 (1) [(2)] Vertical supports for vehicular barrier protection [~~guardrails~~] shall be at least
3 three-inch schedule 40 steel pipe or other material with equal or greater strength. The vertical supports
4 shall be capped on the top or otherwise protected to prevent the entrance of water or debris [~~into the~~
5 ~~guardpost~~]; anchored in concrete at least 18 inches below the ground; and rise at least 30 inches above the
6 ground. Supports shall be spaced four feet apart or less.

7 (2) [(3)] The [~~top of the~~] horizontal guardrailing for vehicular barrier protection shall be
8 secured to the top of the vertical supports at least 30 inches above the ground. The railing [~~horizontal-~~
9 ~~guardrailing~~] shall be at least three-inch schedule 40 steel pipe or other material with equal or greater
10 strength. The railing [~~horizontal guardrailing~~] shall be capped on the ends or otherwise protected to
11 prevent the entrance of water or debris [~~into the guardpost~~]; and welded or bolted to the vertical supports
12 with bolts of sufficient size and strength to prevent damage to the protected equipment under normal
13 conditions, including the nature of the traffic to which the protected equipment is subjected.

14 (3) [(4)] Openings in horizontal guardrailing, except the opening that is permitted directly
15 in front of a bulkhead, shall not exceed three feet. Only one opening is allowed on each side of the
16 guardrailing. A means of temporarily removing the horizontal guardrailing and vertical supports to
17 facilitate the handling of heavy equipment may be incorporated into the horizontal guardrailing and
18 vertical supports. In no case shall the protection provided by the horizontal guardrailing and vertical
19 supports be decreased. Transfer hoses from the bulkhead shall be routed only through the 45-degree
20 opening in front of the bulkhead or over the horizontal guardrailing.

21 (4) [(5)] Clearance of at least three feet shall be maintained between the vehicular barrier
22 protection [~~railing~~] and any part of an LP-gas transfer system or container or clearance of two feet for
23 retail [~~cylinder filling or~~] service station installations. The two vertical supports [~~posts~~] at the ends of any
24 vehicular barrier protection [~~railing~~] which protects a bulkhead shall be located a minimum of 24 and a
25 maximum of 36 inches at 45-degree angles to the nearest corner of the bulkhead.

26 (5) [(6)] Vehicular barrier [~~The operating end of the container and any part of the LP-gas~~
27 ~~transfer system or container which is exposed to collision damage or vehicular traffic shall be protected~~
28 ~~from this type of damage. The~~] protection shall extend at least three feet beyond any part of the LP-gas
29 transfer system or container which is exposed to collision damage or vehicular traffic.

1 (6) Installations which have highway barriers located between vehicular traffic and the
2 container and material handling equipment shall not be required to have vehicular barrier protection
3 installed.

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

6 (e) [(f)] If exceptional circumstances exist or will exist at an installation which would require
7 additional protection such as larger-diameter horizontal railing [~~guardrailing~~], then the licensee or
8 operator shall install such additional protection. In addition, AFS [~~LP-Gas Operations~~] at its own
9 discretion may require an installation to be protected with added safeguards to adequately protect the
10 health, safety, and welfare of the general public. AFS [~~LP-Gas Operations~~] shall notify the person in
11 writing of the additional protection needed and shall establish a reasonable time period during which the
12 additional protection shall be installed. The licensee shall ensure that any necessary extra protection is
13 installed. If a person owning or operating such an installation disagrees with AFS' [~~LP-Gas Operations~~']
14 determination made under this subsection, that person may request a public hearing on the matter. The
15 installation shall either be protected in the manner prescribed by AFS [~~LP-Gas Operations~~] or removed
16 from service with all product withdrawn from it until AFS' [~~LP-Gas Operations~~'] final decision.

17 (f) [~~(e)~~] In addition to NFPA 58 §5.2.8.1, LP-gas installations shall comply with the sign and
18 lettering requirements specified in Table 1 of this section. An asterisk indicates that the requirement
19 applies to the equipment or location listed in that column.

20 Figure: 16 TAC §9.140(f)

21 (1) Unless colors are specified, lettering shall be in a color that sharply contrasts to the
22 background color of the sign, and shall be readily visible to the public.

23 (2) Items 1, 2, and 3 in Table 1 may be combined on one sign.

24 (3) Items 1, 2, and 3 in the column entitled "Licensee or Non-Licensee ASME 4001+
25 Gal. A.W.C." in Table 1 apply to installations with 4,001 gallons or more aggregate water capacity
26 protected only by guardrailing as required in subsection (d) of this section, and bulkheads as required by
27 §9.143 of this title (relating to Piping and Valve [~~Bulkhead, Internal Valve, API 607 Ball Valve, and~~
28 ~~ESV~~] Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of
29 4,001 Gallons or More) for commercial, bulk storage, cylinder filling, or forklift installations.

30 (4) Item 11 in the column entitled "Requirements" in Table 1 applies to facilities which
31 have two or more containers.

1 (5) Item 13 in the column entitled "Requirements" in Table 1 applies to outlets where an
2 LP-gas certified employee is responsible for the LP-gas activities at that outlet, when a licensee's
3 employee is the operations supervisor at more than one outlet as required by §9.17(a) of this title (relating
4 to Designation and Responsibilities of Company Representative and Operations Supervisor).

5 (6) Any information in Table 1 of this subsection required for an underground container
6 shall be mounted on a sign posted within 15 feet horizontally of the manway or the container shroud.

7 (7) Licensees and non-licensees shall comply with operational and/or procedural actions
8 specified by the signage requirements of this section.

9 (8) Any 24-hour emergency telephone numbers shall be:

10 (A) monitored at all times; and

11 (B) be answered by a person who is knowledgeable of the hazards of LP-gas and
12 who has comprehensive LP-gas emergency response and incident information, or has immediate access to
13 a person who possesses such knowledge and information. A telephone number that requires a call back
14 (such as an answering service, answering machine, or beeper device) does not meet the requirements of
15 this section.

16 (g) ~~(h)~~ In addition to NFPA 58, §8.4.2.2, storage ~~[Storage]~~ racks used to store nominal 20-
17 pound DOT portable or any size forklift containers shall be protected against vehicular damage by:

18 (1) meeting the guardrail requirements of subsection (d) of this section; or

19 (2) installing guard posts, provided:

20 (A) Guard posts ~~[effective February 1, 2008, for new installations, the guard-~~
21 ~~posts]~~ are installed a minimum of 18 inches from each storage rack; and

22 (i) consist of at least three-inch schedule 40 steel pipe, capped on top or
23 otherwise protected to prevent the entrance of water or debris into the guard post, no more than four feet
24 apart, and anchored in concrete at least 30 inches below ground and rising at least 30 inches above the
25 ground; or

26 (ii) are ~~[(B) effective February 1, 2008, for new installations, the guard-~~
27 ~~posts are installed a minimum of 18 inches from each storage rack and are]~~ constructed of at least four-
28 inch schedule 40 steel pipe capped on top or otherwise protected to prevent the entrance of water or debris
29 into the guard post, and attached by welding to a minimum 8-inch by 8-inch steel plate at least 1/2 inch
30 thick. The guard posts and 8 steel plate shall be permanently installed and securely anchored to a concrete
31 driveway or concrete parking area.

1 (3) Guardrail or guard posts are not required to be installed if:

2 (A) the cylinder storage rack is located a minimum of 48 inches behind a
3 concrete curb or concrete wheel stop that is a minimum of five inches in height above the grade of the
4 driveway or parking area;

5 (B) if the requirements of subparagraph (A) cannot be met, the cylinder storage
6 rack must be installed a minimum of 48 inches behind a concrete curb or concrete wheel stop that is a
7 minimum of four inches in height above the grade of the driveway or parking area, and a concrete wheel
8 stop at least four inches in height must be installed at least 12 inches from the curb or first wheel stop;

9 (4) All parking wheel stops and cylinder storage racks in paragraph (3) of this subsection
10 must be secured against displacement.

11 (h) [(4)] Self-service dispensers shall be protected against vehicular damage by:

12 (1) vehicular barrier protection [~~guardrails~~] that complies [~~comply~~] with subsection (d)
13 [~~(2)-(6)~~] of this section; or

14 (2) vertical supports [~~guard posts~~] that comply with subsection (d) [~~(2)~~] of this section;
15 or

16 (3) where routine traffic patterns expose only the approach end of the dispenser to
17 vehicular damage, support columns, concrete barriers, bollards, inverted U-shaped guard posts anchored
18 in concrete, or other protection acceptable to AFS [~~LP-Gas Operations~~], provided:

19 (A) – (B) (No change.)

20 (i) [(4)] Self-service dispensers utilizing protection specified in paragraphs (2) - (3) of [this]
21 subsection (h) shall be connected to supply piping by a device designed to prevent the loss of LP-gas in
22 the event the dispenser is displaced. The device must retain liquid on both sides of the breakaway point
23 and be installed in a manner to protect the supply piping against damage.

24
25 §9.141. Uniform Safety Requirements.

26 (a) In addition to NFPA 58, §6.8.1.4 [~~§6.6.1.4~~], containers shall be painted as follows:

27 (1) (No change.)

28 (2) If AFS [~~LP-Gas Operations~~] disapproves of a certain color, the licensee or ultimate
29 consumer shall provide to AFS [~~LP-Gas Operations~~] information from the container or paint
30 manufacturer stating specific reasons why the color is heat-reflective and should be approved. The AFS
31 [~~LP-Gas Operations~~] director shall make the final determination and shall notify the licensee or ultimate

1 consumer.

2 (b) In addition to NFPA 58, §6.27.4.2 [~~§6.24.4.2~~], each LP-gas private or public motor/mobile or
3 forklift refueling installation which includes a liquid dispensing system shall incorporate into that
4 dispensing system a breakaway device.

5 (1) Any vapor return hose installed at such installations shall also be equipped with a
6 breakaway device.

7 (2) LP-gas installations at which forklift cylinders are completely removed from the
8 forklift before being filled are not required to have a breakaway device.

9 (c) [~~Locking handles on ball-type shutoff valves~~]. Any ball-type shutoff valve less than two
10 inches in size shall have a locking handle. If a ball-type shutoff valve of any size has a locking handle
11 installed at the terminal end of the hose, the main liquid and/or vapor valves or main shutoff valves on the
12 stationary container at an attended installation may remain open as long as the locking handle on the
13 transfer hose remains locked until the transfer hose is properly connected. If a ball-type shutoff valve two
14 inches or larger in size does not have a locking handle, the main liquid and/or vapor valves or main
15 shutoff valves on the stationary container shall remain closed at all times and shall not be opened until the
16 transfer hose is properly connected or disconnected.

17 (d) [~~Pumps~~]. A retail operated [~~DOT portable container filling installation and/or~~] service station
18 installation shall be equipped with a pump.

19 (e) In addition to NFPA 58, §5.2.8.1, all containers shall be numbered in accordance with the
20 requirements set forth in Table 1 of §9.140 of this title (relating to System [~~Uniform~~] Protection
21 Requirements [~~Standards~~]).

22 (f) In addition to NFPA 58, §6.5.4.1 [~~§6.4.7~~], no canopies or coverings are allowed over any
23 stationary ASME [~~LP-gas~~] container of 125 gallons or more or over loading and unloading areas where
24 LP-gas transport transfer operations are performed. Non-combustible wind breaks and other weather
25 protection may be installed in accordance with NFPA 58, §6.7.1.1 and §6.25.3.3 to provide employees
26 and customers protection against the elements of weather, but shall not be installed over any portion of an
27 LP-gas container.

28 (g) Any container that may have contained product other than LP-gas shall be thoroughly cleaned
29 and purged prior to introducing LP-gas into such container. Only grades of LP-gas determined to be
30 noncorrosive may be introduced into any container. LP-gas may not contain anhydrous ammonia,
31 hydrogen sulfide, or any other contaminant.

1 (1) If it is known or suspected that the LP-gas has been or may be contaminated, the
2 person responsible for the contamination shall have one or more of the tests contained in "Liquefied
3 Petroleum Gas Specifications for Test Methods, Gas Processors Association (GPA) 2140" performed by a
4 testing laboratory or individual qualified to perform the tests. AFS [LP-Gas Operations] may request
5 information necessary to determine the qualification of any testing laboratory or individual.

6 (2) (No change.)

7 (3) Based on the results of the tests, AFS [LP-Gas Operations] may require that the LP-
8 gas be removed immediately from the container or that the container be removed immediately from LP-
9 gas service.

10 (h) (No change.)

11
12 §9.142. LP-Gas Container Storage and Installation Requirements.

13 Except as noted in this section and in addition to NFPA 58 §6.4.1.1 [~~§6.3.1~~], LP-gas containers
14 shall be stored or installed in accordance with the distance requirements in NFPA 58, §§6.2.2, 6.4.4
15 [~~6.4.5~~], and 8.4.1 and any other applicable requirements in NFPA 58 or the rules in this chapter [~~LP-Gas~~
16 ~~Safety Rules~~].

17 (1) An LP-gas liquid dispensing installation other than a retail operated [~~DOT portable~~
18 ~~container filling~~] service station installation is not required to have a pump, provided that the storage
19 containers are located one and one half times the required distances specified in NFPA 58, §6.4.1.1
20 [~~§6.2.2~~], or a minimum distance of 15 feet if the storage container is less than 125 gallons water capacity.

21 (2) (No change.)

22
23 §9.143. Piping and Valve [~~Bulkhead, Internal Valve, API 607 Ball Valve, and ESV~~] Protection for
24 Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.

25 (a) Instead of NFPA 58, §6.14, all [~~§6.6.12, effective February 1, 2001,~~] new stationary LP-gas
26 installations with individual or aggregate water capacities of 4,001 gallons or more [~~, including licensee~~
27 ~~and nonlicensee locations,~~] shall:

28 (1) install a vertical bulkhead complying with subsection (d) of this section; [~~;~~] and

29 (2) install one of the following in [~~for~~] all container openings 1 1/4 inches or greater,
30 [~~pneumatically operated emergency shutoff valves (ESV), pneumatically operated internal valves, or~~
31 ~~pneumatically operated API 607 ball valves~~] as required in this section and §9.126 of this title (relating to

1 Appurtenances and Equipment):

2 (A) pneumatically-operated emergency shutoff valves (ESV);

3 (B) pneumatically-operated internal valves;

4 (C) pneumatically-operated API 607 ball valves; or

5 (D) in lieu of the ESV or internal valve specified in subparagraphs (A) and (B) of

6 this paragraph, a backflow check valve may be installed where the flow is in one direction into the
7 container. The backflow check valve shall have a metal-to-metal seat or a primary resilient seat with
8 metal backup, not hinged with combustible material, and shall be designed for the specific application.

9 ~~[in the table in §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and~~
10 ~~Adopted With Changes or Additional Requirements) for NFPA 58, §6.11.1. In lieu of a pneumatically-~~
11 ~~operated internal valve or a pneumatically-operated ESV, a backflow check valve may be installed where~~
12 ~~the flow is in one direction into the container. The backflow check valve shall have a metal to metal seat~~
13 ~~or a primary resilient seat with metal backup, not hinged with combustible material, and shall be designed~~
14 ~~for this specific application]~~

15 (b) Valve protection requirements.

16 (1) The pneumatic ESV and/or backflow check valves shall be installed in the fixed
17 piping of the transfer system upstream of the bulkhead and within four feet of the bulkhead with a
18 stainless steel flexible wire-braided hose not more than 36 inches long installed between the ESV and the
19 bulkhead.

20 (2) The ESV shall be installed in the piping so that any break resulting from a pull away
21 will occur on the hose or swivel-type piping side of the connection while retaining intact the valves and
22 piping on the storage side of the connection and will activate the ESV at the bulkhead and the internal
23 valves, ESV, and API 607 ball valves at the container or containers. Provisions for anchorage and
24 breakaway shall be provided on the cargo tank side for transfer from a railroad tank car directly into a
25 cargo tank. Such anchorage shall not be required from the tank car side.

26 (3) Pneumatically-operated ESV, internal valves, and API 607 ball valves shall be
27 equipped for automatic shutoff using thermal (fire) actuation where the thermal element is located within
28 five feet (1.5 meters) of the ESV, internal valves, and/or API 607 ball valves. Temperature sensitive
29 elements shall not be painted nor shall they have any ornamental finishes applied after manufacture.

30 (4) Internal valves, ESVs, and backflow check valves shall be tested annually for
31 working order. The results of the tests shall be documented in writing and kept in a readily accessible

1 location for one year following the performed tests.

2 (5) Pneumatically-operated internal valves, ESV, and API 607 ball valves shall be
3 interconnected and incorporated into at least one remote operating system.

4 (c) ~~(b)~~ In addition to NFPA 58 §5.9.4.1, ~~[§5.9.6, within two years of February 1, 2001, or by~~
5 ~~February 1, 2003, at the latest,]~~ stationary LP-gas installations ~~[in existence as of February 1, 2001, with~~
6 ~~individual or aggregate water capacities of 4,001 gallons or more, including licensee and nonlicensee~~
7 ~~locations,]~~ or railroad tank car transfer systems to fill trucks with no stationary storage involved~~], which~~
8 ~~do not have a bulkhead, ESV, and/or backflow check valves where the flow is in one direction into the~~
9 ~~container]~~ shall have [install] vertical bulkheads, pneumatic ESV and/or backflow check valves installed
10 where the flow is in one direction into the container. ESVs, internal valves, and API 607 ball valves shall
11 have emergency remote controls conspicuously marked according to the requirements of Table 1 of
12 §9.140 of this title (relating to System Protection Requirements) as follows:

13 (1) For all new and existing facilities, where a bulkhead, internal valves, and ESVs are
14 installed, at least one clearly identified and easily accessible manually operated remote emergency shutoff
15 device shall be located between 20 and 100 feet from the ESV in the path of egress from the ESV.

16 (2) In addition to NFPA 58 §7.2.3.8 beginning September 1, 2005, for new installations,
17 at least one clearly identified and easily accessible manually operated remote emergency shutoff device
18 shall be located between 25 and 100 feet from the ESV at the bulkhead and in the path of egress from the
19 ESV. API 607 ball valves installed after February 1, 2008, shall also meet the requirements of this
20 section.

21 (d) ~~(e)~~ Existing installations which have horizontal bulkheads and cable-actuated ESV shall
22 comply with the following:

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

25 (2) If a cable-actuated ESV requires replacement, it shall be replaced with a
26 pneumatically-operated ESV;

27 (3) If the horizontal bulkhead or a backflow check valve or a cable-actuated ESV are
28 moved from their original location to another location, no matter what the distance from the original
29 location, then the installation shall comply with the requirements for a vertical bulkhead and
30 pneumatically-operated ESV;

31 (4) All cable-actuated ESV shall be replaced with pneumatically-operated ESV by

1 January 1, 2011.

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

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

4 (2) No more than two transfer hoses shall be attached to a pipe riser. If two hoses are
5 simultaneously connected to one or two transports, the use of the two hoses shall not prevent the
6 activation of the ESV in the event of a pull away;

7 (3) Both liquid and vapor transfer hoses shall be plugged or capped when not in use;

8 (4) Bulkheads shall be located at least 10 feet from any aboveground container or
9 containers and a minimum of 10 feet horizontally from any portion of a container or valve exposed
10 aboveground on any underground or mounded container. If the 10-foot distance cannot be obtained, the
11 licensee or nonlicensee shall inform AFS [~~the Safety Division (the Division)~~] in writing and include all
12 necessary information. AFS [~~The Division~~] may grant administrative distance variances to a minimum
13 distance of five feet. If the licensee or nonlicensee requests that the bulkhead be closer than five feet to
14 the container or containers, the licensee or nonlicensee shall apply for an exception to a safety rule as
15 specified in §9.27 of this title (relating to Application for an Exception to a Safety Rule);

16 (5) Horizontal bulkheads shall not be converted to vertical bulkheads;

17 (6) Bulkheads shall be anchored in reinforced concrete to prevent displacement of the
18 bulkhead, piping, and fittings in the event of a pullaway;

19 (7) Bulkheads shall be constructed by welding using the following materials or materials
20 with equal or greater strength, as shown in the diagram.

21 Figure: 16 TAC §9.143(d)(7) (No change.)

22 (A) Six-inch steel channel iron shall be used;

23 (B) Legs shall be four-inch schedule 80 piping;

24 (C) The top crossmember of a vertical bulkhead shall be six-inch standard weight
25 steel channel iron. The channel iron shall be installed so the channel portion is pointing downward to
26 prevent accumulation of water or other debris. The height of the top crossmember above ground shall not
27 result in torsional stress on the vertical supports of the bulkhead in the event of a pullaway;

28 (D) The kick plate shall be at least 1/4 inch steel plate installed at least 10 inches
29 from the top of the bulkhead crossmember. A kick plate is not required if the crossmember is constructed
30 to prevent torsional stress from being placed on the piping to the pipe risers;

31 (E) Either a schedule 40 pipe sleeve or a 3,000-pound coupling shall be welded

1 between the top crossmember and the kick plate;

2 (i) Pipe sleeves shall have a clearance of 1/4 inch or less for the piping to
3 the pipe riser, and the piping shall terminate through the bulkhead with a schedule 80 pipe collar, a
4 minimum 12-inch schedule 80 threaded (not welded) pipe riser (nipple), and an elbow or other fitting
5 between the bulkhead and hose coupling;

6 (ii) If a 3,000-pound coupling is used, no collar is required; however, the
7 minimum 12-inch length of schedule 80 threaded pipe riser and an elbow or other fitting between the
8 bulkhead and hose coupling are required;

9 (iii) Elbows or other fittings shall comply with NFPA 58, §5.11.4
10 [§2.4.4] and shall direct the transfer hose from vertical to prevent binding or kinking of the hose.

11 (8) In lieu of a minimum 12-inch nipple on [ø] a vertical bulkhead, swivel-type piping
12 (breakaway loading arm) may be installed. The swivel-type piping shall meet all applicable provisions of
13 the rules in this chapter [~~LP-Gas Safety Rules~~]. The swivel-type piping may also be used for loading,
14 unloading, or product transfer, but shall not be used in lieu of ESVs. The swivel-type piping shall be
15 installed and maintained according to the manufacturer's instructions.

16 (9) AFS [~~LP-Gas Operations~~] may require additional bulkhead protection if the
17 installation is subject to exceptional circumstances or located in an unusual area where additional
18 protection is necessary to protect the health, safety, and welfare of the general public.

19 [~~(e) In addition to NFPA 58, §5.7.4.2 as amended in the table in §9.403 of this title (relating to~~
20 ~~Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional~~
21 ~~Requirements), ESVs, internal valves, and API 607 ball valves shall have emergency remote controls~~
22 ~~conspicuously marked according to the requirements of Table 1 of §9.140 of this title (relating to Uniform~~
23 ~~Protection Standards) as follows:]~~

24 [~~(1) Effective February 1, 2001, for all new facilities, where a bulkhead, internal valves,~~
25 ~~and ESVs are installed, at least one clearly identified and easily accessible manually operated remote~~
26 ~~emergency shutoff device shall be located between 20 and 100 feet from the ESV in the path of egress~~
27 ~~from the ESV. Existing installations shall have complied by August 1, 2001.]~~

28 [~~(2) Beginning September 1, 2005, for new installations, at least one clearly identified~~
29 ~~and easily accessible manually operated remote emergency shutoff device shall be located between 25~~
30 ~~and 100 feet from the ESV at the bulkhead and in the path of egress from the ESV. API 607 ball valves~~
31 ~~installed after February 1, 2008, shall also meet the requirements of this section.]~~

1 ~~[(3) The use of swivel type piping as specified in subsection (d)(8) of this section shall~~
2 ~~not eliminate the requirement for an ESV. Swivel type piping may be installed between the bulkhead and~~
3 ~~the minimum 12-inch nipple, but shall not eliminate the requirement for an ESV. The swivel type piping~~
4 ~~shall be installed and maintained according to the manufacturer's instructions.]~~

5 (e) ~~[(f)]~~ The bulkheads, internal valves, backflow check valves, and ESVs shall be kept in
6 working order at all times in accordance with the manufacturer's instructions and the rules in this chapter
7 ~~[LP-Gas Safety Rules]~~. If the bulkheads, internal valves, backflow check valves and ESVs are not in
8 working order in accordance with the manufacturer's instructions and the rules in this chapter ~~[LP-Gas~~
9 ~~Safety Rules]~~, the licensee or operator of the installation shall immediately remove them from LP-gas
10 service and shall not operate the installation until all necessary repairs have been made.

11 (f) ~~[(g)]~~ In addition to NFPA 58 §§5.11.6 and 6.11.6.1 ~~[[§§5.9.6 and 6.9.6.1]~~, by February 1, 2003,
12 rubber flexible connectors which are 3/4-inch or larger in size installed in liquid or vapor piping at an
13 existing liquid transfer operation shall have been replaced with a stainless steel flexible connector.
14 Stainless steel flexible connectors shall be 60 inches in length or less, and shall comply with all applicable
15 rules in this chapter ~~[LP-Gas Safety Rules]~~. Flexible connectors installed at a new installation after
16 February 1, 2001, shall be stainless steel.

17 (g) ~~[(h)]~~ If necessary to increase LP-gas safety, AFS ~~[LP-Gas Operations]~~ may require a
18 pneumatically-operated internal valve equipped for remote closure and automatic shutoff through thermal
19 (fire) actuation to be installed for certain liquid and/or vapor connections with an opening of 3/4 inch or
20 one inch in size.

21 (h) ~~[(i)]~~ Stationary LP-gas installations with individual or aggregate water capacities of 4,001
22 gallons or more are exempt from subsections (a) through (c) ~~[and (b)]~~ of this section provided:

23 (1) each container is filled solely through a 1 3/4 inch double back check filler valve
24 installed directly into the container; and

25 (2) at least one clearly identified and easily accessible manually operated remote
26 emergency shutoff device shall be located between 25 and 100 feet from the point of transfer in the path
27 of egress to close the primary discharge valves in the containers; and

28 (3) the LP-gas installation is not used to fill an LP-gas transport.

29
30 SUBCHAPTER C. VEHICLES ~~[AND VEHICLE DISPENSERS]~~.

31 §9.201. Applicability.

1 (a) This subchapter applies to transport containers and moveable fuel storage tenders such as farm
2 carts constructed to MC-330 or MC-331 Department of Transportation (DOT) specifications,
3 nonspecification units, container delivery units, school buses, mass transit vehicles, special transit
4 vehicles, and public transportation vehicles.

5 (1) Transfer of LP-gas from one transport to another shall be permitted only through a
6 hose with a nominal inside diameter of 1 1/4 inch or less and protected by an off-truck remote control
7 shutdown as required in Title 49 Code of Federal Regulations (CFR) §173.315(n)(3).

8 (2) An LP-gas transport shall not be joined to manifold piping or to a stationary container
9 for use as an auxiliary storage container at any stationary installation except with prior approval from
10 AFS [LP-Gas Operations].

11 (b) All transports and moveable fuel storage tenders shall comply with MC-330 or MC-331, or
12 the exemption in 49 CFR [Title 49, Code of Federal Regulations (CFR),] §173.315(k).

13 (c) Licensees and ultimate consumers shall comply with other DOT or motor vehicle
14 requirements, if applicable. In addition, transports and container delivery units shall also comply with the
15 applicable sections of [Title] 49 CFR, the Federal Motor Vehicle Safety Standards, and any other
16 applicable regulations. Examples of such additional requirements are as follows:

17 (1) 49 CFR §177.834(j) states: "Except for a cargo tank conforming to §173.29(b)(2) of
18 this subchapter, a person may not drive a cargo tank motor vehicle containing a hazardous material
19 regardless of quantity unless: (1) All manhole closures are closed and secured; and (2) All valves and
20 other closures in liquid discharge systems are closed and free of leaks, except external emergency self-
21 closing valves on MC 338 cargo tanks containing the residue of cryogenic liquids may remain either open
22 or closed during transit."

23 (2) 49 CFR §177.840(g) states: "Each liquid discharge valve on a cargo tank motor
24 vehicle, other than an engine fuel line valve, must be closed during transportation except during loading
25 and unloading."

26 (3) (No change.)
27

28 §9.202. Registration and Transfer of LP-Gas Transports or Container Delivery Units.

29 (a) A person who operates a transport equipped with LP-gas cargo tanks or any container delivery
30 unit, regardless of who owns the transport or unit, shall register such transport or unit with AFS [LP-Gas-
31 Operations] in the name or names under which the operator conducts business in Texas prior to the unit

1 being used in LP-gas service.

2 (1) To register a unit previously unregistered in Texas, the operator of the unit shall:

3 (A) pay to AFS [~~LP-Gas Operations~~] the \$270 registration fee for each bobtail
4 truck, semitrailer, container delivery unit, or other motor vehicle equipped with LP-gas cargo tanks; [~~and~~]

5 (B) file a properly completed LPG Form 7;

6 (C) file a copy of the Manufacturer's Data Report;

7 (D) file a copy of the DOT Certificate of Compliance; and

8 (E) file a copy of the hydrostatic or pneumatic test required by §9.208 of this title
9 (relating to Testing Requirements), unless the unit was manufactured within the previous five years or 10
10 years for units which meet the exemption in 49 CFR 180.407(c).

11 (2) To register an MC-330/MC-331 specification unit which was previously registered in
12 Texas but for which the registration has expired, the operator of the unit shall:

13 (A) pay to AFS[~~LP-Gas Operations~~] the \$270 registration fee;

14 (B) file a properly completed LPG Form 7; and

15 (C) file a copy of the latest test results if an expired unit has not been used in the
16 transportation of LP-gas for over one year or if a current hydrostatic test has not been filed with AFS.

17 (3) To re-register a currently registered unit, the licensee operating the unit shall pay a
18 \$270 annual registration fee.

19 (4) [~~(3)~~] To transfer a currently registered unit, the new operator of the unit shall:

20 (A) pay the \$100 transfer fee for each unit; and

21 (B) file a properly completed LPG Form 7.

22 (b) AFS [~~LP-Gas Operations~~] may also request that an operator registering or transferring any
23 unit[;]

24 [~~(1) file a copy of the Manufacturer's Data Report; or~~]

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

27 (c) When all registration or transfer requirements have been met, AFS [~~LP-Gas Operations~~] shall
28 issue LPG Form 4 which shall be properly affixed in accordance with the placement instructions on the
29 form. LPG Form 4 shall authorize the licensee or ultimate consumer to whom it has been issued and no
30 other person to operate such unit in the transportation of LP-gas and to fill the transport containers.

31 (1) A person shall not operate an LP-gas transport unit or container delivery unit in Texas

1 unless the LPG Form 4 has been properly affixed or unless its operation has been specifically approved
2 by AFS [~~LP-Gas Operations~~].

3 (2) A person shall not introduce LP-gas into a transport container unless that unit bears an
4 LPG Form 4 or unless specifically approved by AFS [~~LP-Gas Operations~~].

5 (3) (No change.)

6 (4) This subsection shall not apply to:

7 (A) a container manufacturer/fabricator who introduces a reasonable amount of
8 LP-gas into a newly constructed container in order to properly test the vessel, piping system, and
9 appurtenances prior to the initial sale of the container. The liquid LP-gas shall be removed from [~~form~~]
10 the transport container prior to the unit leaving the container manufacturer/fabricator's premises; or

11 (B) a person who introduces a maximum of 150 gallons of LP-gas into a newly
12 constructed transport container when such container will provide the motor fuel to the chassis engine for
13 the purpose of allowing the unit to reach its destination.

14 (5) AFS [~~LP-Gas Operations~~] shall not issue an LPG Form 4 if:

15 (A) AFS [~~LP-Gas Operations~~] or a Category A, B, or O licensee determines that
16 the transport is unsafe for LP-gas service;

17 (B) AFS [~~LP-Gas Operations~~] does not have an inspection record of the transport
18 or cylinder delivery unit by a Commission representative within four years of its initial registration [~~on or~~
19 ~~after January 1, 2006~~]; or

20 (C) AFS [~~LP-Gas Operations~~] has not inspected the transport or cylinder delivery
21 unit at least once every four years after the initial registration [~~within a four-year cycle thereafter~~].

22 (6) If an LPG Form 4 decal on a unit currently registered with AFS [~~LP-Gas Operations~~]
23 is destroyed, lost, or damaged, the operator of that vehicle shall obtain a replacement decal by filing LPG
24 Form 18B and a \$50 replacement fee with AFS [~~LP-Gas Operations~~].

25
26 §9.203. School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle Installations and
27 Inspections.

28 (a) After the manufacture of or the conversion to an LP-gas system on any vehicle to be used in
29 Texas as a school bus, mass transit, public transportation, or special transit vehicle, the manufacturer,
30 licensee, or ultimate consumer making the installation or conversion shall notify AFS [~~LP-Gas~~
31 ~~Operations~~], in writing on LPG Form 503 that the applicable LP-gas powered vehicles are ready for a
32 complete inspection to determine compliance with the rules in this chapter [~~LP-Gas Safety Rules~~].

1 (b) AFS shall conduct the inspection within a reasonable time to ensure the vehicles are operating
2 in compliance with the rules in this chapter.

3 (1) If AFS' ~~[LP-Gas Operations]~~ initial complete inspection finds the vehicle in
4 compliance with the rules in this chapter ~~[LP-Gas Safety Rules]~~ and the statutes, the vehicle may be
5 placed into LP-gas service. For fleet installations of identical design, an initial inspection shall be
6 conducted prior to the operation of the first vehicle, and subsequent vehicles of the same design may be
7 placed into service without prior inspections. ~~[Inspections shall be conducted within a reasonable time-~~
8 ~~frame to ensure the vehicles are operating in compliance with the LP-Gas Safety Rules.]~~

9 (2) If violations exist at the time of the initial complete inspection, the vehicle shall not
10 be placed into LP-gas service and the manufacturer, licensee, or ultimate consumer making the
11 installation or conversion shall correct the violations. The manufacturer, licensee, or ultimate consumer
12 shall file with AFS documentation demonstrating compliance with the rules in this chapter, or AFS shall
13 conduct another complete inspection before the vehicle may be placed into LP-gas service.

14 (3) For public transportation vehicles only, ~~[either manufactured to use or converted to~~
15 ~~LP-gas,]~~ if AFS ~~[LP-Gas Operations]~~ does not conduct the initial inspection of such vehicle within 30
16 business days of receipt of LPG Form 503, the vehicle may be operated in LP-gas service if it complies
17 with the rules in this chapter ~~[LP-Gas Safety Rules]~~. ~~[The manufacturer, licensee, or ultimate consumer~~
18 ~~shall file with LP-Gas Operations documentation demonstrating compliance with the LP-Gas Safety~~
19 ~~Rules, or LP-Gas Operations shall conduct another complete inspection before the vehicle may be placed~~
20 ~~into LP-gas service.]~~

21 (c) The manufacturer, licensee, or ultimate consumer making the installation or conversion shall
22 be responsible for compliance with the rules in this chapter ~~[LP-Gas Safety Rules]~~, statutes, and any other
23 local, state, or federal requirements.

24 (d) If the requested AFS ~~[LP-Gas Operations]~~ inspection identifies violations requiring
25 modifications by the manufacturer, licensee, or ultimate consumer, AFS ~~[LP-Gas Operations]~~ shall
26 consider the assessment of an inspection fee to cover the costs associated with any additional inspection,
27 including mileage and per diem rates set by the legislature.

28
29 §9.204. Maintenance of Vehicles.

30 (a) All LP-gas vehicles and vehicle containers, valves, dispensers, accessories, piping, transfer
31 equipment, gas container, gas utilization equipment, and appliances shall be maintained in safe working

1 order and in accordance with the manufacturer's instructions and the rules in this chapter [~~LP-Gas Safety~~
2 ~~Rules~~].

3 (b) If any of the LP-gas vehicles and vehicle containers, valves, dispensers, accessories, piping,
4 transfer equipment, gas containers, gas utilization equipment, or appliances is not in safe working order,
5 AFS [~~LP-Gas Operations~~] may require that the vehicle be immediately removed from LP-gas service and
6 not be operated until the necessary repairs have been made.

7
8 §9.206. Vehicle Identification Labels.

9 LP-gas shall not be introduced into any vehicle powered by LP-gas and designed for regular use
10 on public roadways unless the vehicle is properly identified by a weather-resistant diamond-shaped label
11 described in NFPA 58, §12.3.4.2 [~~§11.11.1~~], as that section is amended in Table 1 of §9.403 of this title
12 (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted With Changes or Additional
13 Requirements).

14
15 §9.208. Testing Requirements.

16 Each transport container unit required to be registered with AFS [~~LP-Gas Operations~~] shall be
17 tested in accordance with 49 CFR 180.407, relating to requirements for test and inspection of
18 specification cargo tanks. The tests shall be conducted by any individual authorized by the United States
19 Department of Transportation through a DOT "CT" number to conduct such tests. This section shall not
20 apply to the initial transfer of unregistered units that are tested and transferred from another state. If the
21 test results show any unsafe condition, or if the transport unit does not comply with 49 CFR Parts 100 -
22 185, the transport container unit shall be immediately removed from LP-gas service and shall not be
23 returned to LP-gas service until all necessary repairs have been made and AFS [~~LP-Gas Operations~~]
24 authorizes in writing its return to service.

25
26 §9.211. Markings.

27 In addition to NFPA 58 §9.4.6.2, each LP-gas transport and container delivery unit in LP-gas
28 service shall be marked on each side and the rear with the name of the licensee or the ultimate consumer
29 operating the unit. Such lettering shall be legible and at least two inches in height and in sharp color
30 contrast to the background. AFS [~~LP-Gas Operations~~] shall determine whether the name marked on the
31 unit is sufficient to properly identify the licensee or ultimate consumer operating the unit.

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§9.212. Manifests.

(a) All manifests or bills of lading shall indicate the amount and type of odorant per gross gallons, the vapor pressure of the product at 100 degrees [~~degree~~] Fahrenheit, the net gallons, the loading temperature, the specific gravity at 60 degrees Fahrenheit, the type of product, and the United Nations number with verification by the loading entity and loader. A copy of the manifest or bill of lading shall be given to the entity receiving the shipment.

(b) – (c) (No change.)

SUBCHAPTER D. ADOPTION BY REFERENCE OF NFPA 54 (NATIONAL FUEL GAS CODE).

§9.301. Adoption by Reference of NFPA 54.

(a) Except as modified in the remaining sections of this subchapter, the Commission adopts by specific reference the provisions established by the National Fire Protection Association in its 2018 [~~2006~~] edition of the *National Fuel Gas Code*, commonly referred to as NFPA 54 or Pamphlet 54. Nothing in this section or subchapter shall prevent the Commission, after notice, from adopting additional requirements, whether more or less stringent, for individual situations to protect the health, safety, and welfare of the general public. Any documents or parts of documents incorporated by reference into these rules shall be a part of these rules as if set out in full.

(b) The Commission also adopts by reference all other NFPA publications or portions of those publications referenced in NFPA 54 which apply to LP-gas activities only. The adopted pamphlets referenced in NFPA 54 are:

(1) NFPA 30A, *Code for Motor Fuel Dispenser Facilities and Repair Garages*, 2018 [~~2003~~] edition;

(2) NFPA 37, *Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines*, 2018 [~~2002~~] edition;

(3) NFPA 51, *Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes*, 2018 [~~2002~~] edition;

(4) NFPA 52, *Vehicular Fuel Systems Code*, 2016 [~~2006~~] edition;

(5) NFPA 58, *Liquefied Petroleum Gas Code*, 2017 [~~2004~~] edition, as amended in Subchapter E of this chapter (relating to Adoption by Reference of NFPA 58 (LP-Gas Code));

1 (6) NFPA 70, *National Electrical Code*, 2017 [~~2005~~] edition;

2 (7) NFPA 82, *Standard on Incinerators and Waste, and Linen Handling Systems and*
3 *Equipment*, 2014 [~~2004~~] edition;

4 (8) NFPA 88A, *Standard for Parking Structures*, 2015 [~~2002~~] edition;

5 (9) NFPA 90A, *Standard for the Installation of Air Conditioning and Ventilating*
6 *Systems*, 2018 [~~2002~~] edition;

7 (10) NFPA 90B, *Standard for the Installation of Warm Air Heating and Air Conditioning*
8 *Systems*, 2018 [~~2006~~] edition;

9 (11) NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial*
10 *Cooking Operations*, 2017 [~~2004~~] edition;

11 (12) NFPA 211, *Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning*
12 *Appliances*, 2016 [~~2003~~] edition;

13 (13) NFPA 409, *Standard on Aircraft Hangars*, 2016 [~~2004~~] edition;

14 (14) NFPA 780, *Standard for the Installation of Lightning Protection Systems*, 2017
15 edition;

16 (15) [~~14~~] NFPA 853, *Standard for the Installation of Station Fuel Cell Power Systems*,
17 2015 [~~2003~~] edition; and

18 (16) [~~15~~] NFPA 1192, *Standard on Recreational Vehicles*, 2018 [~~2005~~] edition.

19
20 §9.302. Clarification of Certain Terms Used in NFPA 54.

21 (a) (No change.)

22 (b) Qualified agency. The term "qualified agency" as defined in NFPA 54, §3.3.81 [~~§3.3.83~~],
23 shall include a person (as "person" is defined in §9.2 of this title (relating to Definitions)) who holds a
24 current license issued by the Commission, or a person performing certain LP-gas activities on his own
25 premises, as allowed in §9.134 of this title (relating to Connecting Container to Piping).

26 (c) (No change.)
27

28 §9.303. Exclusion of NFPA 54, §10.28 [~~§10.29~~].

29 The Commission does not adopt NFPA 54, §10.28 [~~§10.29~~], which refers to NFPA 52, Vehicular
30 Fuel Systems Code. Persons engaging in CNG activities shall comply with the Commission's adopted
31 rules in [~~at~~] Chapter 13 of this title (relating to Regulations for Compressed Natural Gas (CNG)).

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§9.304. Unvented Appliances.

An individual who services and repairs an LP-gas appliance not required by the manufacturer to be vented to the atmosphere is exempt from the requirement to obtain a Category D license as specified in §9.6 of this title (relating to License Categories, Container Manufacturer Registration, and Fees). An individual who installs these unvented appliances to LP-gas systems by means of LP-gas appliance connectors is also exempt from Category D licensing.

§9.306. Room Heaters in Public Buildings.

In addition to applicable requirements in NFPA 54, ~~§10.22.3 [Chapter 10]~~, Installation of Specific Appliances ~~[Equipment]~~, room heaters in schools, day care centers, foster homes, hotels or other similar buildings or rooms used for temporary lodging shall be vented and equipped with a safety shut-off device, except that room heaters with 40,000 Btu or less input and infrared heaters are not required to be vented, but shall have a safety shutoff device and an oxygen depletion system (ODS).

§9.307. Identification of Converted Appliances.

(a) In addition to the requirements of NFPA 54, §9.1.3, and NFPA 58, ~~§5.23 [5-20]~~, upon completion of the conversion and testing of LP-gas appliances, the licensee, registrant, or appliance manufacturer making the conversion shall attach to each such appliance a decal or tag of metal or other permanent material indicating that the appliance is converted for use with LP-gas.

(b) (No change.)

§9.308. ~~Installation [Identification]~~ of Piping ~~[Installation]~~.

(a) In addition to the requirements of NFPA 54, Chapter 7, Gas Piping Installation, LP-gas piping shall be installed, altered, repaired, pressure tested, and leakage tested only by persons properly ~~[licensed or]~~ certified by the Commission pursuant to §§9.10 and 9.13 relating to Rules Examination, and General Installers and Repairman Exemption.

(b) Licensees and registrants shall document and retain such documentation of all pressure and leakage tests pursuant to §9.4 of this title (relating to Records) ~~[and Enforcement]~~.

(c) When connecting to or supplying a new piping system with corrugated stainless steel tubing (CSST), the licensee or registrant shall ensure the bonding requirements of NFPA 54, §7.13.2, have been

1 met. Bonding requirements may be completed by a licensed electrician.

2 (d) In addition to NFPA 58 §5.11.5, licensees and registrants shall retain written proof regarding
3 any current certifications required by the manufacturer for installation and repair methods for CSST,
4 polyethylene, and polyamide pipe and tubing, including heat-fusion.

5
6 §9.311. Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors
7 and Piping Support.

8 (a) In addition to the requirements of NFPA 54, §9.6.2 and NFPA 58 §5.11.6.5 [~~§5.9.6.5~~]
9 regarding gas hose connectors, agricultural structures, such as greenhouses or broiler houses, or industrial
10 structures not inhabited by humans may use a gas hose connector [~~have appliance connectors~~] more than
11 six feet in length as an appliance connector provided that:

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

13 (2) the hose shall comply with NFPA 58, §§5.11.6.1 through 5.11.6.4 [~~§§5.9.6.1 through~~
14 ~~5.9.6.4~~];

15 (3) - (4) (No change.)

16 (b) (No change.)

17 (c) Items listed in NFPA 54, §1.1.1.2(2) must comply with the requirements of NFPA 58 as
18 adopted in Subchapter E of this chapter (relating to Adoption by Reference of NFPA 58 (LP-Gas Code)).

19 [~~(e) In addition to the requirements in NFPA 54, §7.2.6, the support spacing requirement for 3/4-~~
20 ~~to one inch pipe shall not apply to agricultural structures not inhabited by humans, such as greenhouses~~
21 ~~and broiler houses, provided that:]~~

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

23 [~~(2) pipe joints and fittings are supported by the trusses.]~~

24
25 §9.312. Certification Requirements for Joining Methods. **REPEAL**

26
27 §9.313. Sections in NFPA 54 Adopted with Additional Requirements or Not Adopted.

28 Table 1 of this section lists certain NFPA 54 sections which the Commission adopts with
29 additional requirements, changes, or does not adopt in order to address the Commission's rules in this
30 chapter.

31 Figure: 16 TAC §9.313

1
2 SUBCHAPTER E. ADOPTION BY REFERENCE OF NFPA 58 (LP-GAS CODE).

3
4 §9.401. Adoption by Reference of NFPA 58.

5 (a) Except as modified in this subchapter, the Commission adopts by specific reference the
6 provisions established by the National Fire Protection Association (NFPA) in its 2017 [~~2008~~] edition of
7 the *Liquefied Petroleum Gas Code* [~~(formerly titled *Standard for the Storage and Handling of Liquefied*~~
8 ~~*Petroleum Gases*)~~], commonly referred to as NFPA 58 or Pamphlet 58[~~, effective February 1, 2008~~].
9 Nothing in this section or subchapter shall prevent the Commission, after notice, from adopting additional
10 requirements, whether more or less stringent, for individual situations to protect the health, safety and
11 welfare of the general public. Any documents or parts of documents incorporated by reference into these
12 rules shall be a part of these rules as if set out in full.

13 (b) The Commission also adopts by reference all other NFPA publications or portions of those
14 publications referenced in NFPA 58, §2.1, which apply to LP-gas activities only. The adopted pamphlets
15 referenced in NFPA 58 are:

- 16 (1) NFPA 10, *Standard for Portable Fire Extinguishers*, 2013 [~~2007~~] edition;
17 (2) NFPA 13, *Standard for the Installation of Sprinkler Systems*, 2016 [~~2007~~] edition;
18 (3) NFPA 15, *Standard for Water Spray Fixed Systems for Fire Protection*, 2017 [~~2007~~]
19 edition;
20 (4) NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based*
21 *Fire Protection Systems*, 2017 [~~2005~~] edition;
22 (5) NFPA 30, *Flammable and Combustible Liquids Code*, 2015 [~~2008~~] edition;
23 (6) NFPA 30A, *Code for Motor Fuel Dispensing Facilities and Repair Garages*, 2015
24 [~~2008~~] edition;
25 (7) NFPA 51B, *Standard for Fire Prevention in Use of Cutting and Welding Processes*,
26 2014 [~~2003~~] edition;
27 (8) NFPA 54, *National Fuel Gas Code*, 2018 edition, as amended in Subchapter D of this
28 chapter (relating to Adoption by Reference of NFPA 54 (National Fuel Gas Code));
29 (9) [~~8~~] NFPA 55, *Standard for the Storage, Use, and Handling of Compressed Gases*
30 *and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks*, 2016 [~~2005~~] edition;
31 (10) [~~9~~] NFPA 59, *Utility LP-Gas Plant Code*, 2015 [~~2004~~] edition;

- 1 (11) [(10)] NFPA 70, *National Electrical Code*, 2017 [2008] edition;
2 (12) [(11)] NFPA 99, *Standard for Health Care Facilities*, 2015 [2005] edition;
3 (13) [(12)] NFPA 101, *Life Safety Code*, 2015 [2006] edition;
4 (14) [(13)] NFPA 160, *Standard for the Use of Flame Effects Before an Audience*, 2016
5 [2006] edition;
6 (15) [(14)] NFPA 220, *Standard on Types of Building Construction*, 2015 [2006] edition;
7 [(15) NFPA 251, *Standard Methods of Tests of Fire Resistance of Building Construction*
8 *and Materials*, 2006 edition;]
9 (16) NFPA 1192, *Standard on Recreational Vehicles*, 2015 [2005] edition.

10

11 §9.402. Clarification of Certain Terms Used in NFPA 58. **(NO CHANGE.)**

12

13 §9.403. Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional
14 Requirements.

15 (a) Table 1 of this section lists certain NFPA 58 sections which the Commission does not adopt
16 because the Commission's corresponding rules are more pertinent to LP-gas activities in Texas, or which
17 the Commission adopts with changed language or additional requirements in order to address the
18 Commission's existing rules.

19 Figure: 16 TAC §9.403

20 (b) (No change.)

21 This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be
22 within the agency's authority to adopt.

Issued in Austin, Texas on October 1, 2019.

Filed with the Office of the Secretary of State on October 1, 2019.



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