

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

18 In Subchapter B, LP-Gas Installations, Containers, Appurtenances, and Equipment Requirements,
19 the Commission adopts amendments to §§9.101-9.103, relating to Filings Required for Stationary LP-Gas
20 Installations; Notice of Stationary LP-Gas Installations; and Objections to Proposed Stationary LP-Gas
21 Installations; amendments to §§9.107-9.110, relating to Hearings on Stationary LP-Gas Installations;
22 Interim Approval Order for Stationary LP-Gas Installations; Physical Inspection of Stationary LP-Gas
23 Installations; and Emergency Use of Proposed Stationary LP-Gas Installations; amendments to §§9.113-
24 9.116, relating to Installation and Maintenance; Odorizing and Reports; Examination and Testing of
25 Containers; and Container Corrosion Protection System; §9.126, relating to Appurtenances and
26 Equipment; §§9.129-9.132, relating to Manufacturer's Nameplate and Markings on ASME Containers;
27 Commission Identification Nameplates; 200 PSIG Working Pressure Stationary Vessels; and Sales to
28 Unlicensed Individuals; §§9.134-9.137, relating to Connecting Container to Piping; Unsafe or
29 Unapproved Containers, Cylinders, or Piping; Filling of DOT Containers; and Inspection of Cylinders at
30 Each Filling; §§9.140-9.143, relating to System Protection Requirements ; Uniform Safety Requirements;
31 LP-Gas Container Storage and Installation Requirements; and Piping and Valve Protection for Stationary
32 LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.

33 In Subchapter C, Vehicles, the Commission adopts amendments to §§9.201-9.204, relating to
34 Applicability; Registration and Transfer of LP-Gas Transports or Container Delivery Units; School Bus,

1 Public Transportation, Mass Transit, and Special Transit Vehicle Installations and Inspections; and
2 Maintenance of Vehicles; §9.206, relating to Vehicle Identification Labels; §9.208 relating to Testing
3 Requirements; and §9.211 and §9.212, relating to Markings; and Manifests.

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

13 In Subchapter E, Adoption by Reference of NFPA 58 (LP-Gas Code), the Commission adopts
14 amendments to §9.401 and §9.403, relating to Adoption by Reference of NFPA 58; and Sections in NFPA
15 58 Not Adopted by Reference, and Adopted with Changes or Additional Requirements.

16 The Commission adopts §§9.2, 9.6, 9.7, 9.10, 9.17, 9.51, 9.116, 9.134, 9.301, 9.308, 9.401 and
17 Tables in §§9.15(e), 9.15(k), 9.26, 9.313, and 9.403 with changes and the remaining rules and tables
18 without changes to the proposed text as published in the October 25, 2019, issue of the *Texas Register* (44
19 TexReg 6134).

20 The Commission received two comments from associations and 25 comments from individuals or
21 companies.

22 Comments from the Texas Association of Campground Owners (the “association”) include:
23 support for the provision in §9.1 that clarifies the rules are not retroactive; support for the retention of the
24 four-year continuing education requirement in §9.52 combined with the adoption of only a portion of
25 NFPA 54 §4, which will greatly reduce costs to association members; and support for amendments to
26 §9.51 providing for a combined test in DOT cylinder filling and motor/mobile fuel. Finally, with regard to
27 amendments in §9.140, the association said it believes the amendments provide needed clarification but
28 also requests that the Commission consider requiring only vertical protection and adding horizontal
29 protection on a case-by-case basis. The Commission appreciates the comments from the association.
30 Because the Commission considers the suggested change outside the scope of this rulemaking, it declines
31 to make any changes to §9.140 at this time.

32 The Texas Propane Gas Association (TPGA) and 19 commenters oppose removing the definition
33 of “repair to container” in §9.2. The commenters suggest retaining the concept but defining it as
34 “maintenance” rather than repair so that the definition matches the Department of Transportation’s

1 definition. The term “repair to container” was removed from the definitions because the term is not used
2 in Chapter 9. The Commission declines to add a definition of maintenance without allowing public
3 comment. The Commission will leave “repair to container” in §9.2 to address commenters’ concerns and
4 consider adding a definition of maintenance in a future rulemaking.

5 TPGA, Amerigas, and 18 other commenters expressed opposition to proposed amendments in
6 §9.10 which require a container delivery unit driver to obtain a bobtail driver certification. Commenters
7 noted that container delivery unit drivers do not have the same responsibilities of a bobtail driver. The
8 Commission’s intent was not to require a container delivery unit driver to be certified, but to acknowledge
9 a bobtail driver can operate a container delivery unit. However, to reduce confusion, the Commission has
10 removed the term “container delivery unit” from §9.10.

11 One comment on §9.116 requested clarification that poly piping is not required to have cathodic
12 protection. The Commission adopts §9.116 with a change to clarify that cathodic protection is required
13 for steel pipelines.

14 The Commission received 20 comments on §9.126: one from TPGA, one from Amerigas, and 18
15 from individuals. These comments requested that the Commission also allow for an electronic pneumatic
16 actuator. The Commission considers this change substantive and not directly related to the proposed
17 amendments. Therefore, the Commission will not adopt the suggested change but will consider it for a
18 future rulemaking.

19 TPGA, Amerigas, and 19 other commenters expressed opposition to §9.134’s requirement for a
20 pressure test and leak test because a leak test is sufficient and in some cases a pressure test can be
21 dangerous. The Commission agrees and adopts §9.134 with a change to remove the pressure test
22 requirement.

23 TPGA, Amerigas, and 19 other commenters disagree with §9.140’s requirement for additional
24 crash protection on storage racks used to store nominal 20-pound DOT portable or any size forklift
25 containers because locked ventilated cages provide adequate protection. These comments also request that
26 the Commission clarify the use of bollards in other installations requiring crash protection. The
27 Commission declines to make changes to §9.140 regarding locked ventilated cages for cylinder storage
28 because NFPA 58 does not address safety concerns for the storage of all caged cylinders. The
29 Commission will consider the request to clarify the use of bollards in a future rulemaking.

30 TPGA, Amerigas, and 21 other commenters on §9.143 requested that the Commission allow for
31 use of an engineered safety breakaway coupler. This change is outside the scope of the current
32 rulemaking, but the Commission will consider this change in the future.

33 The Commission received 19 comments on §9.308: one from TPGA and 18 from individuals.
34 These comments oppose the requirement to comply with bonding requirements in NFPA 54 §7.12.2.

1 Also, commenters interpret the proposed amendments to require LP-gas operators to certify that electrical
2 work was done properly. Commenters oppose that requirement as outside their responsibility. The
3 Commission adopts §9.308 with a change to require LP-gas operators to merely verify that a new piping
4 system is bonded when connecting to or supplying the new system with corrugated stainless steel tubing
5 (CSST).

6 TPGA and 17 commenters on §9.311 oppose eliminating the ability to use ceiling trusses to place
7 piping in chicken houses. The floor of the chicken house is a corrosive environment. It is the
8 Commission's understanding that NFPA 54 does not apply to chicken houses. Brooders must instead
9 meet the requirements of NFPA 58 for piping. Therefore, the amendments would not require brooders to
10 place pipes on the floor of the chicken house.

11 TPGA's comment and 18 other comments oppose amendments to §9.403 regarding the fire safety
12 analysis in NFPA 58 §6.29.3.3. The commenters request that the Commission continue its exception to
13 this NFPA provision which has been in place since 2001 because to require the fire safety analysis in
14 9.403 would be redundant. The Commission declines to make the requested change. The amendments
15 only require the fire safety analysis for installations 10,000 gallons or larger. The amendments increase
16 safety for local emergency responders by helping them understand the conditions specific to larger
17 installations. To give operators time to comply, the requirement for a fire safety analysis will not take
18 effect until two years after the effective date of the rule amendments. This two-year delayed effective date
19 was proposed in Table §9.403 and published with the proposed rule amendments in the *Texas Register*.

20 Other comments from TPGA and commenters on §9.403 include: (1) requests to remove the
21 provision that grandfathers installations with a single-stage regulator and instead adopt the NFPA's
22 requirement that any installation greater than 100,000 BTU's have a two-stage regulator system; (2)
23 requests to adopt NFPA 58 §§6.22.9.3 and 6.22.9.4, which establish the maximum allowable capacity; (3)
24 requests to adopt NFPA 58 §8.3.1 and Tables 8.3.1(a), 8.3.1(b) and 8.3.2 because without these
25 requirements there is no restriction on the size or amount of LP-gas that can be used or stored in a
26 commercial location; and (4) requests to adopt NFPA 58 §9.6.2.2 to ensure that there are requirements to
27 address private transportation of containers not in commerce, which fall outside of DOT's jurisdiction.

28 The Commission agrees with item (1) and adopts Table 9.403 with revisions such that NFPA 58 6.10.2.3
29 is adopted with changes to prohibit single stage regulators in fixed piping systems except for installations
30 covered in 6.10.2.4. The Commission notes that the cylinders referenced in the NFPA sections in item (2)
31 are outside the Commission's jurisdiction. Therefore, the Commission declines to adopt those sections of
32 the NFPA. The Commission also declines to adopt NFPA 58 §8.3.1 and Tables 8.3.1(a), 8.3.1(b) and
33 8.3.2 as requested in item (3). The current version of Chapter 9 also does not adopt these sections of the
34 NFPA by reference. By not adopting NFPA 58 §8.3.1 and its tables the Commission prohibits storage of

1 any container inside a building frequented by the public, which addresses the concern raised in the
2 comments. The Commission agrees with item (4) and adopts Table 9.403 with a change such that the
3 existing language is retained and the proposed changes are removed.

4 TPGA and 16 other commenters on §9.403 oppose adoption of NFPA 58 Chapter 15, which
5 would require an Operations and Maintenance Manual for storage over 10,000 gallons. The manual
6 should be a business decision, not a Commission requirement. The Commission disagrees. The
7 amendments adopt NFPA 58 Chapter 15 to increase safety at large installations by documenting operating
8 procedures for transferring product, including actions to be taken in an unintended release of product, and
9 procedures for maintaining the mechanical integrity of the system. The Commission notes that the
10 requirement for an operations and maintenance manual will not go into effect until one year after the
11 effective date of the amendments to §9.403. The one-year delayed effective date was proposed in Table
12 9.403 and published in the *Texas Register* with the proposed rule amendments. NFPA 58 Chapter 15,
13 specifically 15.1 through 15.3.2.2, includes provisions addressing the required content of operations and
14 maintenance manuals.

15 The Commission adopts the amendments, new rule and repeal to update and clarify the
16 Commission's liquefied petroleum gas (LP-gas) rules. Amendments also implement changes from the
17 86th Legislative Session. House Bill 2714 removed the requirement that manufacturers of LP-gas
18 containers obtain a license from the Commission and instead requires registration with the Commission.
19 Adopted amendments to reflect this statutory change are found in §§9.2, 9.4-9.7, 9.15, 9.16, 9.21, 9.22,
20 and 9.26. Operators will not be required to comply with changes directly related to manufacturer
21 registrations until June 1, 2020 to allow Commission programming efforts to be completed. Sections 9.6
22 and 9.7 are adopted with a change to specify the June 1, 2020 effective date. Tables 9.15(e) and 9.15(k),
23 are adopted with changes to add rows and correct row and NFPA references.

24 Adopted amendments also reflect changes made to the National Fire Protection Association
25 (NFPA) standards since Chapter 9 was last amended. These amendments are adopted with an effective
26 date of September 1, 2020. Amendments reflecting NFPA updates are found in §§9.1, 9.7, 9.8, 9.35, 9.51,
27 9.101, 9.113, 9.116, 9.129, 9.131, 9.135, 9.136, 9.137, 9.140, 9.141, 9.142, 9.143, 9.206, 9.211, 9.301,
28 9.302, 9.303, 9.306, 9.307, 9.308, 9.311, 9.313, 9.401, and 9.403. The repeal of §9.312 is also adopted to
29 reflect NFPA changes. Section 9.116 is adopted with a change to clarify when cathodic protection is
30 required. Section 9.301 is adopted with changes to reflect the adoption of new NFPA versions effective
31 September 1, 2020. Section 9.308 is adopted with a change to require LP-gas operators to merely verify
32 that a new piping system is bonded when connecting to or supplying the new system with corrugated
33 stainless steel tubing (CSST). The table in §9.313 is adopted with minor changes to correct errors in the
34 proposed version. Section 9.401 is adopted with changes to reflect the adoption of new NFPA versions

1 effective September 1, 2020. The table in §9.403 is also adopted with changes due to comments as
2 described above.

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

9 Clarifying amendments include, but are not limited to, amendments in §§9.2, 9.3, 9.5-9.11, 9.13,
10 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
11 these clarifications is included below.

12 Amendments to §9.2 remove definitions of terms that no longer appear in Chapter 9 or are only
13 used within one section and, therefore, do not need to be defined. The amendments add definitions of
14 "registered manufacturer" and "service station," as those terms are now used throughout the chapter, and
15 clarify several existing definitions. Section 9.2 is adopted with a change to retain the definition of "repair
16 to container" as discussed in the comment summary above.

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

21 Amendments in §9.5 include changes to implement the registration requirement from House Bill
22 2714. "Manufacturer registration" is included alongside references to applications for license and
23 exemptions. However, the amendments also condense the list of potential applicants and use "applicant"
24 when possible to encompass all types of people seeking Commission authorization to conduct LP-gas
25 related activities. In addition, the amendments clarify when certain violations of a person who holds a
26 position of ownership or control in the applicant will be attributed to an applicant. The intent of this
27 provision is the same; the amendments merely remove unnecessary language and reorganize the provision
28 to make it more straightforward.

29 Section 9.6 is adopted with a change to specify that operators will not be required to comply with
30 changes directly related to manufacturer registrations until June 1, 2020. Generally, amendments adopted
31 in §9.6 update license categories to include licenses currently offered by the Commission, including
32 Categories A1 and A2. The amendments also clarify the Category D and Category I licenses. For
33 example, the amendments remove language related to the service and repair of an LP-gas appliance not
34 required to be vented to the atmosphere. This language was moved to new §9.304, relating to Unvented

1 Appliances, to reduce confusion. Finally, amendments to §9.6 implement House Bill 2714. These
2 provisions remove language related to manufacture and fabrication from existing license categories and
3 add new subsection (d) which states that a container manufacturer registration authorizes the manufacture,
4 assembly, repair, testing and sale of LP-gas containers. The original registration fee is \$1,000; the renewal
5 fee is \$600.

6 Section 9.7 is also adopted with a change to specify that operators will not be required to comply
7 with changes directly related to manufacturer registrations until June 1, 2020. Generally, amendments
8 adopted in §9.7 clarify license requirements and reorganize the section to group related requirements
9 together and remove repetitive language that is contained within other rules. An amendment to subsection
10 (a) reflects NFPA updates. New subsection (h) contains the requirements for obtaining a registration
11 authorizing the manufacture of containers. Subsection (i) details the steps the Alternative Fuels Safety
12 Department (AFS) follows to review and approve license and registration applications. Finally,
13 amendments in §9.7 add "registered manufacturer" in several subsections to implement House Bill 2714.

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

19 Amendments in §9.9 clarify requirements for certificate renewal and steps to renew a lapsed
20 certificate.

21 Section 9.10 is adopted with a change to remove the term "container delivery unit" from the
22 provision related to bobtail driver examinations. Amendments adopted in §9.10 add language from §9.7
23 and §9.8 that an individual who passes the applicable examination with a score of at least 75% will
24 become a certificate holder. The amendments also clarify where and when examinations are available and
25 what an examinee must bring to the exam site. Further, the amendments incorporate the management-
26 level examinations and their descriptions into §9.10(d)(2) instead of including those descriptions in a
27 table. Finally, the amendments clarify the process for obtaining a management-level certificate.

28 Amendments in §9.11 change the title to "Transfer of Employees" to more accurately describe the
29 rule's contents. The amendments also update the process for licensees who hire certificate holders,
30 including allowing notification to the Commission to include only the last four digits of the employee's
31 Social Security Number.

32 Amendments in §9.13 simplify the name of an exempt individual's proof of exemption such that
33 "registration/examination exemption certificate" is changed to "exemption card." Amendments also
34 update department names and other references and remove repetitive language from other sections.

1 Amendments in §9.17(a) clarify filing requirements for outlets. The amendments change
2 "termination" to "conclusion of employment" to better communicate AFS's intent for when a licensee
3 must notify AFS of a company representative's or operations supervisor's departure. The amendments in
4 subsection (d) update manual requirements to contemplate the use of electronic manuals in addition to
5 printed manuals. The amendments also reorganize the section so that related requirements are found in the
6 same subsection or paragraph. Section 9.17(a)(7) is adopted with a change to correct a typographical error
7 in the proposed language.

8 Amendments in §9.26 incorporate insurance requirements for registered manufacturers. Table
9 9.26(a) is adopted with a change to incorporate rule requirements for manufacturers into the table.

10 Section 9.51 is adopted with a change to remove the dispenser operator exam. The exam was not
11 added in the proposed amendments to §9.10 and was not intended to be included in §9.51. Other
12 amendments in §9.51 move applicable language into §9.51 from other sections or tables. The
13 amendments update subsection (j) to reflect the Commission's online registration process and allow an
14 individual to register for a course using only the last four digits of his or her Social Security Number.
15 Finally, amendments in §9.51 update department names and incorporate changes to reflect amendments in
16 other sections.

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

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

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

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

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

1 Amendments in §9.132 incorporate clarifying language from Texas Natural Resources Code
2 §113.081(a).

3 Amendments in §9.134 allow a licensee to connect to piping installed by an unlicensed person
4 provided the licensee has verified that the piping is free of leaks and has been installed according to the
5 rules in Chapter 9. Section 9.134 is adopted with a change to remove the requirement for a pressure test in
6 addition to a leak check.

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

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

13 The Commission adopts the amendments under Texas Natural Resources Code, §113.051, which
14 authorizes the Commission to promulgate and adopt rules and standards relating to any and all aspects or
15 phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the
16 general public; Texas Natural Resources Code §113.0815, which requires a person engaging in the
17 manufacture or fabrication of containers to register with the commission in accordance with rules adopted
18 by the commission; and Texas Natural Resources Code §113.082, which authorizes the Commission to
19 adopt rules establishing license categories for LP-gas activities.

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

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

22
23 SUBCHAPTER A. GENERAL REQUIREMENTS.

24 §9.1. Application of Rules, Severability, and Retroactivity.

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

30 (1) - (2) (No change.)

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

33 (4) - (5) (No change.)

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

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

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

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

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

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

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

19 (g) Vehicles and fuel supply containers excluded from the requirements of this chapter pursuant
20 to subsection (f) of this section shall comply with the requirements of §9.203 of this title (relating [~~;~~
21 ~~relating~~] to School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle Installations
22 and Inspections), and the Commission's exception to NFPA 58, Chapter 11, [~~§11.4.1.5~~] in Table 1 in
23 §9.403 of this title [~~§9.403(a)~~], relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted
24 with Changes or Additional Requirements.

25
26 §9.2. Definitions.

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

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

32 (2) [~~(1)~~] Advanced field training (AFT)--The final portion of the training or continuing
33 education requirements in which an individual shall successfully perform the specified LP-gas activities
34 in order to demonstrate proficiency in those activities.

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

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

5 (3) [(4)] AFT materials--The portion of a Commission training module consisting of the
6 four sections of the Railroad Commission's LP-Gas Qualifying Field Activities, including General
7 Instructions, the Task Information, the Operator Qualification Checklist, and the Railroad
8 Commission/Employer Record.

9 (4) [(5)] Aggregate water capacity (AWC)--The sum of all individual container capacities
10 measured by weight or volume of water which are placed at a single installation location.

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

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

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

16 (5) [(7)] Bobtail driver--An individual who operates an LP-gas cargo tank motor vehicle
17 of 5,000 gallons water capacity or less in metered delivery service.

18 (6) [(8)] Breakaway--The accidental separation of a hose from a cylinder, container,
19 transfer equipment, or dispensing equipment, which could occur on a cylinder, container, transfer
20 equipment, or dispensing equipment whether or not they are protected by a breakaway device.

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

23 (7) [(10)] Certificate holder--An individual:

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

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

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

1 (C) [(D)] who holds a current reciprocal examination exemption pursuant to
2 §9.18 of this title (relating to Reciprocal Examination Agreements with Other States); or

3 (D) [(E)] who holds a current examination exemption certificate pursuant to
4 §9.13 of this title (relating to General Installers and Repairman Exemption).

5 (8) [(11)] Certified-- Authorized to perform LP-gas work as set forth in the Texas Natural
6 Resources Code. Employee certification alone does not allow an individual to perform those activities
7 which require licensing.

8 (9) [(12)] CETP--The Certified Employee Training Program offered by the Propane
9 Education and Research Council (PERC), the National Propane Gas Association (NPGA), or their
10 authorized agents or successors.

11 (10) [(13)] Commercial installation--An LP-gas installation located on premises other
12 than a single family dwelling used as a residence, including but not limited to a retail business
13 establishment, school, bulk storage facility, convalescent home, hospital, [retail LP-gas] cylinder
14 exchange [filling/exchange] operation, service station, forklift refueling facility, private motor/mobile fuel
15 cylinder filling operation, a microwave tower, or a public or private agricultural installation.

16 (11) [(14)] Commission--The Railroad Commission of Texas.

17 (12) [(15)] Company representative--The individual designated to the Commission by a
18 license applicant or a licensee as the principal individual in authority and, in the case of a licensee other
19 than a Category P licensee, actively supervising the conduct of the licensee's LP-gas activities.

20 (13) [(16)] Container delivery unit--A vehicle used by an operator principally for
21 transporting LP-gas in cylinders.

22 (14) [(17)] Continuing education--Courses required to be successfully completed at least
23 every four years by [ertain] certificate holders to maintain certification.

24 (15) [(18)] Director--The director of AFS [the AED] or the director's delegate.

25 (16) [(19)] DOT--The United States Department of Transportation.

26 (17) [(20)] Employee--An individual who renders or performs any services or labor for
27 compensation, including individuals hired on a part-time or temporary basis, on a full-time or permanent
28 basis, and owner-employees [or, for purposes of this chapter, an owner-employee].

29 (18) [(21)] Interim approval order--The authority issued by the Railroad Commission of
30 Texas following a public hearing allowing construction of an LP-gas installation.

31 (19) [(22)] Leak grades--An LP-gas leak that is:

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

34 or

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

3 (20) [(23)] Licensed--Authorized by the Commission to perform LP-gas activities
4 through the issuance of a valid license.

5 (21) [(24)] Licensee--A person which has applied for and been granted an LP-gas license
6 by the Commission, or who holds a master or journeyman plumber license from the Texas State Board of
7 Plumbing Examiners or a Class A or B Air Conditioning and Refrigeration Contractors License from the
8 Texas Department of Licensing and Regulation and has properly registered with the Commission.

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

12 (22) [(26)] LP-Gas Safety Rules--The rules adopted by the Railroad Commission in the
13 Texas Administrative Code, Title 16, Part 1, Chapter 9, including any NFPA or other documents adopted
14 by reference. The official text of the Commission's rules is that which is on file with the Secretary of
15 State's office and available at the Secretary of State's web site or the Commission's web site.

16 (23) [(27)] LP-gas system--All piping, fittings, valves, and equipment, excluding
17 containers and appliances, that connect one or more containers to one or more appliances that use or
18 consume LP-gas.

19 (24) [(28)] Mass transit vehicle--Any vehicle which is owned or operated by a political
20 subdivision of a state, city, or county, used primarily in the conveyance of the general public.

21 (25) [(29)] Mobile fuel container--An LP-gas container mounted on a vehicle to store LP-
22 gas as the fuel supply to an auxiliary engine other than the engine to propel the vehicle or for other uses
23 on the vehicle.

24 (26) [(30)] Mobile fuel system--An LP-gas system, excluding the container, to supply
25 LP-gas as a fuel to an auxiliary engine other than the engine to propel the vehicle or for other uses on the
26 vehicle.

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

29 (28) [(32)] Motor fuel system--An LP-gas system, excluding the container, which
30 supplies LP-gas to an engine used to propel the vehicle.

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

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

4 (30) [(35)] Nonspecification unit--An LP-gas transport not constructed to DOT MC-330 or MC-331
5 specifications but which complies with the exemption in 49 Code of Federal Regulations §173.315(k).
6 (See also "Specification unit" in this section.)

7 (31) [(36)] Operations supervisor--The individual who is certified by the Commission to
8 actively supervise a licensee's LP-gas activities [~~operations~~] and is authorized by the licensee to
9 implement operational changes.

10 (32) [(37)] Outlet--A site operated by an LP-gas licensee from which any regulated LP-
11 gas activity is performed.

12 (33) [(38)] Outside instructor--An individual, other than a Commission employee,
13 approved by AFS [~~AFRED~~] to teach certain LP-gas training or continuing education courses.

14 (34) [(39)] Person--An individual, partnership, firm, corporation, joint venture,
15 association, or any other business entity, a state agency or institution, county, municipality, school
16 district, or other governmental subdivision, or licensee, including the definition of "person" as defined in
17 the applicable sections of 49 CFR relating to cargo tank hazardous material regulations.

18 (35) [(40)] Portable cylinder--A receptacle constructed to DOT specifications, designed
19 to be moved readily, and used for the storage of LP-gas for connection to an appliance or an LP-gas
20 system. The term does not include a cylinder designed for use on a forklift or similar equipment.

21 (36) [(41)] Property line--The boundary which designates the point at which one real
22 property interest ends and another begins.

23 (37) [(42)] Public transportation vehicle--A vehicle for hire to transport persons,
24 including but not limited to taxis, buses (excluding school buses and mass transit or special transit
25 vehicles), or airport courtesy vehicles.

26 (38) [(43)] Recreational vehicle--A vehicular-type unit primarily designed as temporary
27 living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is
28 mounted on, or towed by, another vehicle.

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

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

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

4 (40) ~~[(46)]~~ Rules examination--The Commission's written examination that measures an
5 examinee's working knowledge of Chapter 113 of the Texas Natural Resources Code and/or the current
6 rules in this chapter [LP-Gas Safety Rules].

7 (41) ~~[(47)]~~ School--A public or private institution which has been accredited through the
8 Texas Education Agency or the Texas Private School Accreditation Commission.

9 (42) ~~[(48)]~~ School bus--A vehicle that is sold or used for purposes that include carrying
10 students to and from school or related events.

11 (43) ~~[(49)]~~ Self-service dispenser--A listed device or approved equipment in a structured
12 cabinet for dispensing and metering LP-gas between containers that must be accessed by means of a
13 locking device such as a key, card, code, or electronic lock, and which is operated by a certified employee
14 of an LP-gas licensee or an ultimate consumer trained by an LP-gas licensee.

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

17 (45) ~~[(50)]~~ Special transit vehicle--A vehicle designed with limited passenger capacity
18 which is used by a ~~[school or]~~ mass transit authority for special transit purposes, such as transport of
19 mobility impaired persons.

20 (46) ~~[(51)]~~ Specification unit--An LP-gas transport constructed to DOT MC-330 or MC-
21 331 specifications. (See also "Nonspecification unit" in this section.)

22 (47) ~~[(52)]~~ Subframing--The attachment of supporting structural members to the pads of a
23 container, excluding welding directly to or on the container.

24 (48) ~~[(53)]~~ Trainee--An individual who has not yet taken and passed an employee-level
25 rules examination.

26 (49) ~~[(54)]~~ Training--Courses required to be successfully completed as part of an
27 individual's requirements to obtain or maintain certain certificates.

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

30 (50) ~~[(56)]~~ Transfer system--All piping, fittings, valves, pumps, compressors, meters,
31 hoses, bulkheads, and equipment utilized in transferring ~~[dispensing]~~ LP-gas between containers.

32 (51) ~~[(57)]~~ Transport--Any bobtail or semitrailer equipped with one or more containers.

33 (52) ~~[(58)]~~ Transport driver--An individual who operates an LP-gas trailer or semi-trailer
34 equipped with a container of more than 5,000 gallons water capacity.

1 (53) [(59)] Transport system--Any and all piping, fittings, valves, and equipment on a
2 transport, excluding the container.

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

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.

33 (2) A registrant, officer, employee, or representative of an LP-gas licensee shall make
34 readily available all files, records, reports, documents and information, and shall make readily accessible

1 all company equipment, property, and facilities as the Commission or its authorized representative may
2 reasonably require in the administration and enforcement of this chapter, and in the investigation of
3 violations, complaints alleging violations, and accidents or incidents involving LP-gas.

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

7
8 §9.5. Effect of Safety Violations.

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

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

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

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

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

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

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

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

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

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

4 ~~[(1) an officer, director, general partner, sole owner, or trustee of, or the owner of at least~~
5 ~~25 percent of the beneficial interest in the applicant, registrant for an exemption, or other person; or]~~

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

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

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

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

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

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

24 (e) ~~[(g)]~~ If the Commission is prohibited by subsection (a) ~~[(b)]~~ of this section from approving an
25 application for a license, an exemption, or a manufacturer registration ~~[or a registration for an exemption~~
26 ~~or would be prohibited from doing so by that subsection if the applicant, licensee, or registrant for an~~
27 ~~exemption submitted an application or registration for an exemption], then the Commission, after notice~~
28 and opportunity for a hearing, by order may refuse to renew or may revoke a license, an exemption, or a
29 manufacturer registration ~~[or registration for an exemption]~~ issued ~~[to the applicant, licensee, or registrant~~
30 ~~for an exemption]~~ under this chapter.

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

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

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

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

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

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

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

22
23 §9.6. License Categories, Container Manufacturer Registration, [Licenses] and Fees.

24 (a) A prospective licensee may apply to AFS [~~LP Gas Operations,~~] for one or more licenses
25 specified in subsection (b) [(e)(1)–(16)] of this section. Beginning June 1, 2020, a prospective container
26 manufacturer may apply to AFS for a container manufacturer registration specified in subsection (d) of
27 this section. Prior to June 1, 2020, container manufacturers must be licensed as Category A, A1, or A2 in
28 order to manufacture containers in the state of Texas. Fees required to be paid shall be those established
29 by the Commission and in effect at the time of application [~~licensing~~] or renewal and shall be paid at the
30 time of application or renewal.

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

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

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

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

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

15 (4) [(2)] A Category B license for transport outfitters authorizes the subframing, testing,
16 and sale of LP-gas transport containers, the testing of LP-gas storage containers, the installation, testing,
17 and sale of LP-gas motor or mobile fuel containers and systems, and the installation and repair of
18 transport systems and motor or mobile fuel systems. The original license fee is \$400; the renewal fee is
19 \$200.

20 (5) [(3)] A Category C license for carriers authorizes the transportation of LP-gas by
21 transport, including the loading and unloading of LP-gas, and the installation and repair of transport
22 systems. The original license fee is \$1,000; the renewal fee is \$300.

23 (6) [(4)] A Category D license for general installers and repairmen authorizes the sale,
24 service, and installation of containers, [~~excluding motor fuel containers,~~] and the service, installation, and
25 repair of piping and [~~certain~~] appliances. A Category D license does not authorize the installation of
26 motor fuel containers, motor fuel systems, [as defined by rule, excluding] recreational vehicle containers,
27 or [appliances and LP-gas systems, and motor fuel and] recreational vehicle systems. [The service and
28 repair of an LP-gas appliance not required by the manufacturer to be vented to the atmosphere is exempt
29 from Category D licensing. The installation of these unvented appliances to LP-gas systems by means of
30 LP-gas appliance connectors is also exempt from Category D licensing.] The original license fee is \$100;
31 the renewal fee is \$70. Persons with certain licenses issued [~~Additionally, master or journeyman plumbers~~
32 ~~who are licensed~~] by the Texas State Board of Plumbing Examiners or [~~persons who are licensed with a~~
33 ~~Class A or B Air Conditioning and Refrigeration Contractors License issued by~~] the Texas Department of
34 Licensing and Regulation may register with AFS [~~AFRED~~] as described in §9.13 of this title (relating to

1 General Installers and Repairman Exemption). [~~The initial registration fee is \$50; the registration renewal~~
2 ~~fee is \$20.~~]

3 (7) [(5)] A Category E license for retail and wholesale dealers authorizes the storage,
4 sale, transportation, and distribution of LP-gas at retail and wholesale dealers, and all other activities
5 included in this section, except the manufacture, fabrication, assembly, repair, subframing, and testing of
6 LP-gas containers, and except the sale and installation of LP-gas motor or mobile fuel systems that
7 service an engine with a rating of more than 25 horsepower. The original license fee is \$750; the renewal
8 is \$300.

9 (8) [(6)] A Category F license for cylinder filling authorizes the operation of a cylinder
10 filling facility, including cylinder filling, the sale of LP-gas in cylinders, and the replacement of cylinder
11 valves. The original license fee is \$100; the renewal fee is \$50.

12 (9) [(7)] A Category G license for dispensing stations authorizes the operation of LP-gas
13 dispensing stations filling ASME containers designed for motor or mobile fuel. The original license fee is
14 \$100; the renewal is \$50.

15 (10) [(8)] A Category H license for cylinder dealers authorizes the transportation and sale
16 of LP-gas in cylinders. The original license fee is \$1,000; the renewal is \$300.

17 (11) [(9)] A Category I license for service stations and cylinder filling authorizes any
18 [~~service station and~~] cylinder activity set out in Category F and dispensing station operations set out in
19 paragraph (9) [Category G] of this subsection. A Category I license does not authorize the transportation
20 of LP-gas. [section.] The original license fee is \$150; the renewal is \$70.

21 (12) [(10)] A Category J license for service stations and cylinder facilities authorizes the
22 operation of a cylinder filling facility, including cylinder filling and the sale, transportation, installation,
23 and connection of LP-gas in cylinders, the replacement of cylinder valves, and the operation of an LP-gas
24 service station as set out in Category G. The original license fee is \$1,000; the renewal is \$300.

25 (13) [(11)] A Category K license for distribution systems authorizes the sale and
26 distribution of LP-gas through mains or pipes, and the installation and repair of LP-gas systems. The
27 original license fee is \$1,000; the renewal is \$300.

28 (14) [(12)] A Category L license for engine and mobile fuel authorizes the sale and
29 installation of LP-gas motor or mobile fuel containers, and the sale and installation of LP-gas motor or
30 mobile fuel systems. The original license fee is \$100; the renewal is \$50.

31 (15) [(13)] A Category M license for recreational vehicle installers and repairmen
32 authorizes the sale, service, and installation of recreational vehicle containers, and the installation, repair,
33 and service of recreational vehicle appliances, piping, and LP-gas systems, including recreational vehicle
34 motor or mobile fuel systems and containers. The original license fee is \$100; the renewal is \$70.

1 (16) [(14)] A Category N license for manufactured housing installers and repairmen
2 authorizes the service and installation of containers that supply fuel to manufactured housing, and the
3 installation, repair, and service of appliances and piping systems for manufactured housing. The original
4 license fee is \$100; the renewal is \$70.

5 (17) [(15)] A Category O license for testing laboratories authorizes the testing of LP-gas
6 containers, LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems for
7 the purpose of determining the safety of the containers or systems for LP-gas service, including the
8 necessary installation, disconnection, reconnection, testing, and repair of LP-gas motor fuel systems or
9 mobile fuel systems, transfer systems, and transport systems involved in the testing of containers. The
10 original license fee is \$400; the renewal is \$100.

11 (18) [(16)] A Category P license for portable cylinder exchange authorizes the operation
12 of a portable cylinder exchange service, where the sale of LP-gas is within a portable cylinder with an LP-
13 gas capacity not to exceed 21 pounds, where the portable cylinders are not filled on site, and where no
14 other LP-gas activity requiring a license is conducted. The original license fee is \$100; the renewal fee is
15 \$50.

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

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

24
25 §9.7. Applications for Licenses, Manufacturer Registrations, and Renewals [~~Application for License and~~
26 ~~License Renewal Requirements~~].

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

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

32 (2) A state agency or institution, county, municipality, school district, or other
33 governmental subdivision is exempt from licensing requirements as provided by §113.081(g) if the entity

1 is performing LP-gas activities on its own behalf but is required to obtain a license if performing LP-gas
2 activities for or on behalf of a second party.

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

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

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

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

17 ~~[(1) that individual has taken and passed any applicable rules examination specified in~~
18 ~~§9.10 of this title (relating to Rules Examination) and in §9.17 of this title (relating to Designation and~~
19 ~~Responsibilities of Company Representatives and Operations Supervisors);]~~

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

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

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

28 ~~[(b) A person exempt from licensing as authorized by Texas Natural Resources Code,~~
29 ~~§113.081(b), shall not engage in any LP-gas activities in commerce or in business without first obtaining~~
30 ~~a license.]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ~~[(3) pay the following fees:]~~

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

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

10 ~~[(C) the nonrefundable management-level rules examination fee specified in~~
11 ~~§9.10 of this title (relating to Rules Examination); and]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (3) The required fee shall accompany LPG Form 1M. An original registration fee is
18 \$1,000; the renewal fee is \$600.

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

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

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

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

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

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

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

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

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

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

7 (3) The licensee or registered manufacturer shall review and return all renewal
8 documentation ~~[Renewals shall be submitted]~~ to ~~AFS [LP-Gas Operations]~~ with any necessary changes
9 clearly marked on the forms. The licensee or registered manufacturer shall submit any applicable fees
10 with the renewal documentation. ~~[Licensees engaging in LP-gas product activities as defined in Texas~~
11 ~~Natural Resources Code, §113.081(a)(4), shall include on LPG Form 1 a 24-hour emergency response~~
12 ~~telephone number, if not previously submitted, along with the license renewal fee specified in §9.6 of this~~
13 ~~title (relating to Licenses and Fees) and any applicable transport registration fee specified in §9.202 of~~
14 ~~this title (relating to Registration and Transfer of LP-Gas Transports or Container Delivery Units) on or~~
15 ~~before the last day of the month in which the license expires in order for the licensee to continue LP-gas~~
16 ~~activities.]~~

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

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

21 (6) If a person's license or manufacturer registration has been expired for 90 calendar
22 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
23 this title (relating to License Categories, Container Manufacturer Registration, and Fees).

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

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

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

1 ~~{(1) If a person's license has been expired for 90 calendar days or fewer, the person shall~~
2 ~~submit a renewal fee that is equal to 1 1/2 times the renewal fee required by §9.6 of this title. Upon~~
3 ~~receipt of the renewal fee, LP Gas Operations shall verify that the person's license has not been~~
4 ~~suspended, revoked, or expired for more than one year. After verification, if the licensee has met all other~~
5 ~~requirements for licensing, LP Gas Operations shall renew the license, and the person may resume LP gas~~
6 ~~activities.}~~

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

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

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

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

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

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

30 ~~{(1) An applicant for a Category A license or renewal shall file with LP Gas Operations~~
31 ~~for each of its outlets legible copies of;}~~

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

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) ~~[(d)]~~ An applicant for a new certificate shall:

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

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

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

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

7
8 §9.9. Requirements for Certificate Holder Renewal.

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

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

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

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

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

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

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

31 (2) Upon receipt of the annual renewal fee and any late-filing fee, AFS ~~[penalty, AFRED]~~
32 shall verify that all applicable requirements have been met ~~[the individual's certification has not been~~
33 ~~suspended, revoked, or expired for more than two years]~~. After verification, AFS ~~[AFRED]~~ shall renew

1 the certificate and send a copy of the certificate, or exemption card, if applicable, [certification] and the
2 individual may continue or resume LP-gas activities authorized by that certificate [certification].

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

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

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

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

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

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

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

21
22 §9.10. Rules Examination.

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

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

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

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

31 (1) a completed LPG Form 16; and

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

33 (c) [(a)] An [In addition to complying with NFPA §§4.4 and 11.2, an] individual who files LPG
34 Form 16 and pays the applicable nonrefundable examination fee may take the rules examination [at the

1 ~~Commission's AFRED Training Center, 6506 Bolm Road, Austin, Texas, between the hours of 8:00 a.m.~~
2 ~~and 12:00 noon, Monday through Friday, except for state holidays, and at other designated times and~~
3 ~~locations around the state. Tuesdays and Thursdays are the preferred days for examinations at the AFRED~~
4 ~~Training Center].~~

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

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

18 ~~{(3) The Commission may not issue a certification card to an applicant for a~~
19 ~~management level certificate that requires completion of a course of instruction until the applicant~~
20 ~~completes both the required course of instruction and passes the required management level rules~~
21 ~~examination.}~~

22 ~~{(4) An applicant for a management level certificate shall pass the management level~~
23 ~~rules examination within two years after completing a required course of instruction. An applicant who~~
24 ~~fails to pass such an examination within two years of completing such a course shall reapply as a new~~
25 ~~applicant.}~~

26 (3) [(5)] Exam fees.

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

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

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

33 (D) Individuals who register and pay for a Category E, F, G, I, or J training
34 course as specified in §9.51(j)(2)(A) [~~§9.51(f)(2)(A)~~] of this title (relating to General Requirements for

1 LP-Gas Training and Continuing Education) shall pay the charge specified for the applicable
2 examination.

3 (E) A military service member, military veteran, or military spouse shall be
4 exempt from the examination fee pursuant to the requirements in §9.14 of this title (relating to Military
5 Fee Exemption). An individual who receives a military fee exemption is not exempt from renewal,
6 training, or continuing education fees specified in §9.9 of this title (relating to Requirements for
7 Certificate Holder Renewal, §9.51 of this title, and §9.52 of this title (relating to Training and Continuing
8 Education [~~§§9.9, 9.51, and 9.52 of this title (relating to Requirements for Certificate Renewal; General~~
9 ~~Requirements for LP-Gas Training and Continuing Education; and Training and Continuing Education~~
10 ~~Courses, respectively)~~].

11 (4) [(6)] Time limits.

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

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

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

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

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

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

24 (5) [(7)] The Commission may offer employee-level LP-Gas Transport Driver, DOT
25 Cylinder Filling, and Motor/Mobile Fuel Dispensing examinations in Spanish or English.

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

28 (1) Employee-level examinations.

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

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

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

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

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

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

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

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

31 (I) [(9)] The Appliance Service and Installation Technician examination qualifies
32 an individual to perform all LP-gas activities related to appliances, including installing, repairing and
33 converting appliances, installing and repairing connectors from the appliance gas stop through the venting
34 system, and to perform leak checks on the new or repaired portion of an LP-gas system. The Appliance

1 Service and Installation Technician examination does not authorize an individual to install a container,
2 install or repair piping upstream of and including the appliance gas stop, or to install, repair or adjust
3 regulators.

4 (J) [(+0)] The Motor/Mobile Fuel Filler [~~Dispensing~~] examination qualifies an
5 individual to inspect and fill motor or mobile fuel containers on vehicles, including recreational vehicles,
6 cars, trucks, and buses. The Motor/Mobile Fuel Filler [~~Dispensing~~] examination does not authorize an
7 individual to fill LP-gas cylinders or ASME stationary containers.

8 (2) Management-level examinations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 [(+)] If the examination is graded or reviewed by a testing service, AFS [AFRED] shall
30 notify the individual of the examination results within 14 days of the date AFS [AFRED] receives the
31 results from the testing service. If the notice of the examination results will be delayed for longer than 90
32 days after the examination date, AFS [AFRED] shall notify the individual of the reason for the delay
33 before the 90th day. AFS [AFRED] may require a testing service to notify an individual of the
34 individual's examination results.

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

3 ~~{(3) An individual who has been issued a certification card shall make the card readily~~
4 ~~available and shall present the card to any Commission employee or agent who requests proof of~~
5 ~~certification.}~~

6 (f) ~~{(d)}~~ Failure of any examination shall immediately disqualify the individual from performing
7 any LP-gas related activities covered by the examination which is failed, except for activities covered by
8 a separate examination which the individual has passed. ~~[If requested by an individual who failed the~~
9 ~~examination, AFRED shall furnish the individual with an analysis of the individual's performance on the~~
10 ~~examination.}~~

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

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

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

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

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

23
24 §9.11. Transfer of Employees ~~[Previously Certified Individuals].~~

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

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

32 (2) the last four digits of the employee's ~~[employee]~~ social security number ~~[, names of the~~
33 ~~newly hired certified employee's previous and new employers, and types of LP-gas work to be performed~~
34 ~~by the newly hired certified employee. A state agency, county, municipality, school district, or other~~

1 ~~governmental subdivision is exempt from this subsection if such entity chooses not to certify its~~
2 ~~employees who perform LP-gas activities].~~

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

6
7 §9.12. Trainees.

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

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

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

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

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

24
25 §9.13. General Installers and Repairman Exemption.

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

31 (1) (No change.)

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

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

3 (4) - (5) (No change.)

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

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

7 (d) (No change.)

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

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

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

28
29 §9.14. Military Fee Exemption.

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

31 (e) A military service member, military veteran, or military spouse who receives a military fee
32 exemption is not exempt from, and may not use this section to circumvent, the requirements in this
33 chapter to obtain a license or become certified by examination, including training requirements; license or

1 certification renewal requirements, including training or continuing education courses [~~classes~~] or fees; or
2 any transport registration requirements or fees.

3
4 §9.15. Penalty Guidelines for LP-Gas Safety Violations.

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

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

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

29 (d) (No change.)

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

1 Figure: 16 TAC §9.15(e)

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

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

7 Figure: 16 TAC §9.15(k)

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

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

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

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

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

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

31 (2) Upon receipt of a request complying with paragraph (1) of this subsection, AFS [~~LP-~~
32 ~~Gas Operations~~] shall forward the request for a hearing to the Hearings Division [~~Office of General~~
33 ~~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
32 specified in the notice or shall request an extension of time in which to comply. The request for extension
33 of the time to comply shall be received by LP-Gas Operations within the same time frame specified in the
34 notice for correction or discontinuance.

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

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

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

16
17 §9.17. Designation and Responsibilities of Company Representatives and Operations Supervisors.

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

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

24 (2) (No change.)

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

26 (A) (No change.)

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

30 (C) (No change.)

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

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

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

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

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

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

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

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

27 (4) pass the appropriate management-level rules examination [~~and complete any required~~
28 ~~training specified in §9.52 of this title (relating to Training and Continuing Education Courses)]¹, or, in the
29 case of an applicant for a Category D license, obtain an exemption [a General Installers and Repairman
30 Exemption] as specified in §9.13 of this title (relating to General Installers and Repairman Exemption);~~

31 (5) complete any required training and/or continuing education required in §9.51 and
32 §9.52 of this title (relating to General Requirements for LP-Gas Training and Continuing Education, and
33 Training and Continuing Education, respectively);

1 (6) [(5)] comply with the work experience or training requirements in subsection (e) [(g)]
2 of this section, if applicable;

3 (7) [(6)] be directly responsible for all employees performing their assigned LP-gas
4 activities, unless an operations supervisor is fulfilling this requirement; and

5 (8) [(7)] submit any additional information as deemed necessary by AFS [LP-Gas
6 Operations].

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

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

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

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

17 (4) [(3)] be directly responsible for actively supervising the LP-gas activities of the
18 licensee at the designated outlet.

19 (d) Category P licensees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31
32 §9.18. Reciprocal Examination Agreements with Other States.

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

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

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

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

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

17 (5) (No change.)

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

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

21 (A) the nonrefundable employee-level rules examination fee; and

22 (B) the annual certificate renewal fee specified in §9.10 and §9.9 of this title
23 (relating to Rules Examination, and Requirements for Certificate Holder Renewal, respectively).

24 (2) (No change.)

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

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

30 (2) a completed LPG Form 16R. Applicants from other states shall provide their Social
31 Security numbers to AFS [~~AFRED~~] for purposes of record-keeping and to comply with the requirements
32 in Texas Family Code Annotated §231.302(c) (Vernon 1996), which mandates disclosure of Social
33 Security numbers by applicants to assist in the administration of laws relating to child support. Social

1 Security numbers are subject to or excepted from disclosure to the public in accordance with Texas
2 Government Code, Chapter 552; and [-]

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

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

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

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

12 (1) - (2) (No change.)

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

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

21
22 §9.21. Franchise Tax Certification and Assumed Name Certificates.

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

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

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

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

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

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

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

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

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

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

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

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

1 (5) any other forms required by AFS.

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

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

6 (d) (No change.)

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

11
12 §9.26. Insurance and Self-Insurance Requirements.

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

22 Figure: 16 TAC §9.26(a)

23 (1) (No change.)

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

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

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

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

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

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

21 (g) (No change.)

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

27 (i) Self-insurance requirements.

28 (1) (No change.)

29 (2) A licensee or license applicant desiring to self-insure shall file with AFS [LP-Gas
30 Operations] a properly completed LPG Form 28, Notice of Election to Self-Insure [~~created 11/02~~] and a
31 properly completed LPG Form 28-A, Bank Declarations Regarding Irrevocable Letter of Credit [~~created~~
32 ~~11/02~~]. The licensee or license applicant shall attach to the LPG Form 28-A any documentation
33 necessary to show that the bank issuing the irrevocable letter of credit meets the requirements in
34 paragraph (5)(E) of this subsection.

1 (3) - (5) (No change.)

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

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

17
18 §9.27. Application for an Exception to a Safety Rule.

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

21 (b) The application shall contain the following:

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

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

26 (3) (No change.)

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

30 (A) - (B) (No change.)

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

33 (D) the legal authority under which the applicant, if not the owner, is permitted
34 occupancy;[~~]~~

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

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

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

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

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

14 (2) - (3) (No change.)

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

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

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

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

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

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

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

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

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

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

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

21
22 §9.28. Reasonable Safety Provisions.

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

30
31 §9.35. Written Procedure for LP-Gas Leaks.

32 (a) Each [In addition to NFPA 58 §14.4.9.1, each] licensee shall maintain a written procedure to
33 be followed when any employee receives notification of a possible leak. The licensee shall ensure that all
34 employees are familiar with the procedure and shall authorize employees to implement the procedure

1 without management oversight. The written procedure shall be available to emergency response agencies
2 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~~
3 ~~Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional~~
4 ~~Requirements]~~.

5 (b) - (c) (No change.)
6

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

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

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

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

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

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

15 ~~[of]~~

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

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

20 (7) (No change.)

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

23 (1) name of reporting operator;

24 (2) location of leak or incident;

25 (3) date and time of incident;

26 (4) fatalities and/or personal injuries;

27 (5) phone number of operator;

28 (6) status of incident regarding immediate hazard; and

29 (7) other significant facts relevant to the incident.

30 (c) Following the initial telephone report, the LP-gas licensee who made the telephone report
31 shall submit a properly completed LPG Form 20 to AFS ~~[LP-Gas Operations]~~. The report shall be
32 postmarked within 14 calendar days of the date of initial notification to AFS ~~[LP-Gas Operations]~~, or
33 within five business days of receipt of the fire department's report, whichever occurs first, unless AFS

1 ~~[LP-Gas Operations]~~ grants authorization for a longer period of time when additional investigation or
2 information is necessary.

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

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

11
12 §9.37. Termination of LP-Gas Service.

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

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

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

1 §9.38. Reporting Unsafe LP-Gas Activities.

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

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

12 (c) (No change.)

13

14 §9.41. Testing of LP-Gas Systems in School Facilities.

15 (a) (No change.)

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

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

22 (2) [(1)] If a leak is found in a school LP-gas system, the school district shall immediately
23 remove the affected school district facility from LP-gas service until repairs are made and it passes a
24 subsequent school LP-gas system leakage test. If an employee of a school district performs the initial test,
25 then the subsequent test may not be performed by a school district employee.

26 (3) [(2)] Each school district shall provide the district's supplier with a copy of the most
27 current LP-Gas Form 30 as proof the school LP-gas system has been tested in accordance with this
28 section.

29 (4) [(3)] A school district shall retain LPG Form 30 specifying the date and result of the
30 leakage test performed on each school LP-gas system for a minimum of five years from the date each test
31 was performed. A school district shall make LPG Form 30 readily available for review by the
32 Commission or its authorized representative upon request.

33 (c) Leakage test requirements.

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

3 (2) - (6) (No change.)

4 (d) Methods for conducting a leakage test.

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

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

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

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

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

27 (2) - (3) (No change.)

28 (f) Commission requirements.

29 (1) (No change.)

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

32 (g) Compliance deadlines.

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

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

5 (3) (No change.)
6

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

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

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

18 (c) ~~[(+)]~~ The training requirements apply ~~[only]~~ to:

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

20 (2) applicants for the following ~~[certain]~~ employee-level certifications: ~~[certificates]~~

21 (A) bobtail driver;

22 (B) DOT cylinder filler;

23 (C) recreational vehicle technician;

24 (D) service and installation technician;

25 (E) appliance service and installation technician; and

26 (F) motor/mobile fuel filler.

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

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

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

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

33 (A) bobtail driver;

34 (B) DOT cylinder filler;

1 (C) recreational vehicle technician;

2 (D) service and installation technician;

3 (E) appliance service and installation technician; and

4 (F) motor/mobile fuel filler.

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

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

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

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

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

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

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

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

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

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

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

31 (h) ~~[(d)] No partial credit. Individuals attending courses [elasses] shall receive credit only if they~~
32 attend the entire course ~~[elass-]~~ and pay any training or continuing education course fees in full. The
33 Commission shall not award partial credit for partial attendance.

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

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

8 (1) Registering for a course. To register for a scheduled training or continuing education
9 course ~~[class]~~, an individual shall complete the online registration process at least seven days ~~[form~~
10 ~~provided by AFRED and file the form with AFRED training section]~~ prior to the course. AFS ~~[class-~~
11 ~~AFRED]~~ shall also accept course ~~[class]~~ registrations via regular mail, electronic mail (e-mail), or
12 facsimile transmission (fax). Such ~~[; such]~~ requests shall include the applicant's full name, address, phone
13 number, level (either manager or employee) and category of certification (such as cylinder filling or
14 service and installation), e-mail address, and the name or number, location, and date of the requested
15 course ~~[class]~~.

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

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

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

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

21 and

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

23 (B) The course ~~[Category E, F, G, I, and J class]~~ fees do not include the license
24 or ~~[management level]~~ rules examination fees ~~[or license fee]~~ described in §9.6 and §9.10 of this title
25 (relating to License Categories, Container Manufacturer Registration, [Licenses] and Fees, and Rules
26 Examination, respectively).

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

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

33 (E) Requests for courses ~~[classes]~~ where no training or continuing education
34 course ~~[class]~~ credit is given shall be submitted in writing to the AFS ~~[AFRED]~~ training section. The AFS

1 ~~[AFRED]~~ training section may conduct the requested courses ~~[classes-]~~ at its discretion. The
2 nonrefundable fee for a non-credit course ~~[class]~~ is \$250 if no overnight expenses are incurred by the AFS
3 ~~[AFRED]~~ training section, or \$500 if overnight expenses are incurred. AFS ~~[AFRED]~~ may waive the fee
4 for a non-credit course ~~[class]~~ in cases where the Commission recovers the cost of the course ~~[class]~~ from
5 another source, such as a grant.

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

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

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

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

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

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

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

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

27 (1) a registration confirmation email or fax;

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

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

30 (l) ~~(g) [Retention of records.]~~ Individual applicants or certificate holders shall be responsible for
31 promptly notifying the AFS ~~[AFRED]~~ training section in writing of any discrepancies or errors in the
32 training or continuing education records, and shall notify AFS ~~[AFRED]~~ of any discrepancies or errors in
33 examination records or certificates ~~[certification cards]~~. In the event of a discrepancy, AFS' ~~[AFRED's]~~

1 records, including due dates, shall be deemed correct unless the individual has copies of applicable
2 documents which clarify the discrepancy.

3
4 §9.52. Training and Continuing Education [Courses].

5 (a) Training. Individuals identified in §9.51(c) of this title (relating to General Requirements for
6 LP-Gas Training and Continuing Education) shall complete training. [In addition to complying with
7 NFPA §§4.4 and 11.2, applicants for a new certification and applicants who have passed a certification
8 examination but have not completed an applicable training course shall complete training as specified in
9 the tables in subsection (h) of this section prior to their first certificate renewal deadline.]

10 (1) Available training courses.

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

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

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

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

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

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

25 (G) The 80-hour Category E course covers all the material in courses 2.1, 2.3,
26 3.2, 3.3 and 3.8, and the Commission's rules in this chapter, including NFPA 54 and NFPA 58.

27 (2) Training requirements.

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

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

32 (C) Category D, K and M management-level applicants and all applicants for
33 employee-level certifications that are subject to training requirements shall complete [attend-] an eight-
34 hour course [class]. A certificate holder's training deadline shall not be extended if that individual retakes

1 and passes an examination for the current category and level of certification. A training deadline shall be
2 extended only after a certificate holder successfully completes an applicable training course [e~~l~~ass].

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

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

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

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

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

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

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

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

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

17 (3) [(4)] Individuals who pass an employee-level rules examination between March 1 and
18 May 31 of any year shall have until May 31 of the next year to complete any required training.
19 Individuals who pass an employee-level rules examination at other times shall have until the next May 31
20 to complete any required training. Completion of AFT shall be in accordance with subsection (g) of this
21 section.

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

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

27 (1) Upon fulfillment of the continuing education requirement, the certificate holder's next
28 continuing education deadline shall be four years after the May 31 following the date of the most recent
29 course [e~~l~~ass] the certificate holder has completed, unless the course [e~~l~~ass] was completed on May 31, in
30 which case the deadline shall be four years from that date.

31 (2) A certificate holder's continuing education deadline shall not be extended if an
32 examination for a current category and level of certification is retaken and passed; a continuing education
33 deadline shall be updated [e~~xt~~ended] only after a certificate holder successfully completes an applicable
34 continuing education course [e~~l~~ass]. An individual who completes a continuing education course [e~~l~~ass]

1 after the assigned deadline shall have four years from the original deadline to complete the next course
2 [class].

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

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

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

19 (4) ~~[(2)]~~ Certificate holders who attend a course [class] offered by an outside instructor
20 shall not be entitled to a refund of the annual renewal fee or any other fees or penalties required by the
21 Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (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 course [~~class~~] that required the AFT was attended.

14 (E) For an individual who is employed by a licensee when a course [~~class~~]
15 requiring AFT is attended, but who prior to the AFT's being certified becomes employed by a new
16 licensee, the new 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 course [~~class~~] or
23 the 16-hour Category F, G, I, and J management-level course [~~class~~] shall perform any required AFT
24 activities during the course [~~class~~].

25 (4) If AFT is required for a course [~~class~~], the AFT checklist outlining the specific
26 activities to be performed shall be included in the course [~~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 [~~courses. 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
32 employee-level certificate holders in that category.

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

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

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

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

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

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

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

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

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

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

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

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

31
32 §9.54. Commission-Approved Outside Instructors.

33 (a) General.

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

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

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

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

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

20 (2) (No change.)

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

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

26 (b) Application process. Outside instructor applicants shall submit the following to AFS
27 [~~AFRED~~]:

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

29 (2) a copy of the applicant's Category D, E, I, or M current certificate [~~certification card~~]
30 or, in the case of Category D only, a copy of the master or journeyman plumber/class A or B
31 [~~registration/examination~~] exemption card [~~certificate~~] issued under §9.13 of this title (relating to General
32 Installers and Repairman Exemption) [~~by AFRED~~];

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

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

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

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

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

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

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

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

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

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

33 (h) Renewal of approval. To continue offering AFS-approved [~~AFRED-approved~~] LP-gas courses
34 [~~classes~~], an outside instructor shall renew his or her AFS outside instructor [~~AFRED~~] approval every

1 three years by paying a nonrefundable \$150 renewal fee to AFS [~~AFRED~~] and attending a Train-the-
2 Trainer refresher course [~~class~~] prior to the outside instructor's next renewal deadline.

3 (i) Revision of course materials.

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

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

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

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

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

23 (j) Continuing requirements. Outside instructors shall:

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

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

31 (3) report to AFS [~~AFRED~~] within three business days of the conclusion of a course
32 [~~class~~] the names, social security numbers or RRC identification numbers, and any other information
33 required by AFS [~~AFRED~~], of the persons completing the course [~~class~~]. The report shall be made
34 electronically [~~by electronic mail (e-mail) in an electronic format provided by AFRED~~]. The outside

1 instructor shall ensure that AFS [~~AFRED~~] receives the report by securing written acknowledgment of its
2 receipt by AFS. [~~AFRED. This acknowledgment may be by return electronic mail (e-mail) or by facsimile~~
3 ~~transmission (fax).~~]

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

14 (l) Complaints.

15 (1) Complaints regarding outside instructors shall be made to AFS [~~AFRED~~] in writing
16 by email, fax [~~electronic mail (e-mail), facsimile transmission (fax)~~], or U.S. Postal Service; shall include
17 the printed name, address, telephone number, and, if filed by fax or U.S. Postal Service, the signature of
18 the person complaining; shall state the outside instructor's name, the date, location, and title of the course;
19 and shall describe the facts that show [~~set forth the facts that the complainant alleges demonstrate that~~] the
20 outside instructor:

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

23 (B) - (C) (No change.)

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

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

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

4 (5) (No change.)

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

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

12 (8) - (9) (No change.)

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

15 §9.101. Filings Required for Stationary LP-Gas Installations.

16 (a) General requirements. No LP-gas container shall be placed into LP-gas service or an
17 installation operated or used in LP-gas service until the requirements of this section, as applicable, are met
18 and the facility is in compliance with all applicable rules in this chapter [~~LP-Gas Safety Rules~~] and
19 statutes[~~, in addition to any applicable requirements of the municipality or the county where an~~
20 ~~installation is or will be located~~]. LP-gas systems under the jurisdiction of DOT Safety regulations in 49
21 CFR Parts 192 and 199, and Part 40 shall comply with Chapter 8 of this title (relating to Pipeline Safety
22 Regulations) prior to implementation of service.

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

24 (1) Within 30 calendar days following the completion of a container installation, the
25 licensee shall submit LPG Form 501 to AFS [~~LP-Gas Operations~~] stating:

26 (A) the installation fully complies [~~is in total compliance~~] with the statutes and
27 the rules in this chapter [~~LP-Gas Safety Rules~~];

28 (B) all necessary Commission [~~LP-gas~~] licenses, [~~and~~] certificates, and permits
29 have been issued; and

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

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

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

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

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

10 (A) - (C) (No change.)

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

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

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

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

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

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

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

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

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

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

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

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

32 (B) (No change.)

33 ~~{(3) If an LP-gas stationary installation, equipment, or appurtenances not specifically~~
34 ~~covered by the LP-Gas Safety Rules has been or will be installed, LP-Gas Operations shall apply and~~

1 ~~require any reasonable safety provisions to ensure the LP-gas installation is safe for LP-gas service. If the~~
2 ~~affected entity disagrees with LP-Gas Operations' determination, the entity may request a hearing. The~~
3 ~~installation shall not be placed into LP-gas operation until LP-Gas Operations has determined that the~~
4 ~~installation is safe for LP-gas service.]~~

5 (3) ~~[(4)]~~ AFS ~~[LP-Gas Operations]~~ shall notify the applicant in writing of [outlining] its
6 findings.

7 (4) If the application is administratively denied; ;

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

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

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

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

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

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

26 (8) ~~[(4)]~~ An applicant or operator shall not be required to submit LPG Form 500, LPG
27 Form 500A, or a site plan prior to the installation of bulkheads, swivel-type piping, breakaway devices,
28 pneumatically-operated internal valves, or emergency shutoff valves, or when maintenance and
29 improvements are being made to the piping system at an existing LP-gas installation with an aggregate
30 water [a] capacity of 10,000 gallons or more.

31 (9) ~~[(4)]~~ If a licensee is replacing a container with a container of the same or less overall
32 ~~[length and]~~ diameter and length or height, and is installing the replacement container~~[- installed]~~ in the
33 identical location of the existing container, the licensee shall file LPG Form 500.

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

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

6
7 §9.102. Notice of Stationary LP-Gas Installations.

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

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

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

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

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

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

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

25 (c) (No change.)

26
27 §9.103. Objections to Proposed Stationary LP-Gas Installations.

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

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

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

5 (2) - (3) (No change.)

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

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

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

15
16 §9.107. Hearings on Stationary LP-Gas Installations.

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

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

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

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

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

29 (c) Procedure at hearing. The public hearing shall be conducted pursuant to Chapter 1 of this title
30 ~~(relating to Practice and Procedure [in accordance with the Texas Government Code, Chapter 2001 et~~
31 ~~seq., the general rules of practice and procedure of the Railroad Commission of Texas, and the LP-Gas~~
32 ~~Safety Rules]~~.

33
34 §9.108. Interim Approval Order for Stationary LP-Gas Installations.

1 If the Commission finds after a public hearing that the proposed installation complies with the
2 rules in this chapter [LP-Gas Safety Rules] and the statutes of the State of Texas, and does not constitute a
3 danger to the public health, safety, and welfare, the Commission shall issue an interim approval order.
4 The construction of the installation and the setting of the container shall not proceed until the applicant
5 has received written notification of the interim approval order. Any interim approval order shall include a
6 provision that such approval may be suspended or revoked if:

7 (1) the applicant has introduced LP-gas into the system prior to final approval; ~~[or]~~

8 (2) a physical inspection of the installation indicates that it is not installed in compliance
9 with the submitted plan [plat] drawing for the installation, the rules in this chapter [LP-Gas Safety Rules]
10 or the statutes of the State of Texas; or

11 (3) the installation constitutes a danger to the public health, safety, and welfare.
12

13 §9.109. Physical Inspection of Stationary LP-Gas Installations.

14 (a) Aggregate water capacity of 10,000 gallons or more. The applicant shall notify AFS [LP-Gas
15 Operations] in writing when the installation is ready for inspection. ~~[If LP-Gas Operations does not~~
16 ~~physically inspect the facility within 30 calendar days of receipt of notice that the facility is ready for~~
17 ~~inspection, the facility may operate conditionally until the initial complete inspection is made.]~~

18 (1) If any non-compliance items are cited [safety rule violations exist] at the time of AFS'
19 [LP-Gas Operations'] initial inspection, the installation shall not be placed in LP-gas service [may be
20 required to cease LP-gas operations] until the non-compliance items [violations] are corrected, as
21 determined at the time of inspection depending on the nature of the non-compliance items cited.

22 (2) If AFS does not physically inspect the facility within 30 calendar days of receipt of
23 notice that the facility is ready for inspection, the facility may operate conditionally until the initial
24 inspection is completed.

25 (b) Aggregate water capacity of less than 10,000 gallons. After receipt of LPG Form 501, AFS
26 [LP-Gas Operations] shall conduct an inspection as soon as possible to verify that the installation
27 described is in compliance with the rules in this chapter [LP-Gas Safety Rules]. The facility may be
28 operated prior to inspection if it is in compliance with the rules in this chapter [LP-Gas Safety Rules]. If
29 the initial [any LP-gas statute or safety rule violation exists at the time of the first] inspection at a
30 commercial installation results in the citation of non-compliance items, AFS may require that the subject
31 container, including any piping, appliances, appurtenances, or equipment connected to it, ~~[may]~~ be
32 immediately removed from LP-gas service until the non-compliance items [violations] are corrected.

33 (c) Material variances. If AFS [LP-Gas Operations] determines the completed installation varies
34 materially from the application originally accepted, correction of the variance and notification to AFS

1 [~~LP-Gas Operations~~] or resubmission of the application is required. The review of such resubmitted
2 application shall comply with §9.101 of this title (relating to Filings Required for Stationary LP-Gas
3 Installations).

4 (d) In the event an applicant has requested an inspection and AFS [~~LP-Gas Operations~~]
5 inspection identifies non-compliance items [~~violations~~] requiring modifications by the applicant, AFS
6 [~~LP-Gas Operations~~] shall consider the assessment of an inspection fee to cover the costs associated with
7 any additional inspection, including mileage and per diem rates set by the legislature.

8

9 §9.110. Emergency Use of Proposed Stationary LP-Gas Installations.

10 When there is an immediate need for LP-gas supply under emergency circumstances, AFS [~~LP-~~
11 ~~Gas Operations~~] may waive the requirement for the initial [~~complete~~] inspection for a limited time period
12 in order to meet the emergency need. LP-gas shall not be introduced into the container and it shall not be
13 placed into LP-gas service until AFS [~~LP-Gas Operations~~] grants permission to do so.

14

15 §9.113. Installation and Maintenance.

16 In addition to NFPA 58 §6.21.1, all [~~AH~~] LP-gas storage containers, valves, dispensers,
17 accessories, piping, transfer equipment, gas utilization equipment, and appliances shall be installed and
18 maintained in safe working order and in accordance with the manufacturer's instructions and the rules in
19 this chapter [~~LP-Gas Safety Rules~~]. If any one of the LP-gas storage containers, valves, dispensers,
20 accessories, piping, transfer equipment, gas utilization equipment, and appliances is not in safe working
21 order, AFS [~~LP-Gas Operations~~] may require that the installation be immediately removed from LP-gas
22 service and not be operated until the necessary repairs have been made.

23

24 §9.114. Odorizing and Reports.

25 (a) Odorization shall comply with NFPA 58, §4.2.

26 (b) If AFS [~~LP-Gas Operations~~] determines that there may [~~shall~~] be insufficient odorization,
27 AFS [~~LP-Gas Operations~~] may require testing [~~as deemed necessary to determine its sufficiency~~]. If
28 testing is deemed necessary, AFS [~~LP-Gas Operations~~] shall notify the necessary parties in writing as
29 soon as possible. The written notification will advise which entity is responsible for having the tests
30 performed and paying for the tests to be conducted. The testing shall be performed by a recognized testing
31 laboratory equipped for and experienced in testing of odorization and, if requested, a copy of the test
32 results shall be provided to AFS [~~LP-Gas Operations~~].

33 (c) The person or facility odorizing the gas or the operator of an automatic loading rack shall be
34 responsible for the odorization.

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§9.115.Examination and Testing of Containers.

(a) In order to determine the safety of a container, AFS [LP-Gas Operations] may require that the licensee or operator of the container submit [send] a copy of the manufacturer's data report on that container. AFS [to LP-Gas Operations. LP-Gas Operations] may also require that the container and equipment be examined by a Category A, B, or O licensee, with a comprehensive report on the findings submitted to AFS [LP-Gas Operations] for its consideration. This subsection may be applied even though an acceptable LPG Form 23 has been received.

(b) Any stationary ASME LP-gas container previously in LP-gas service which has not been subject to continuous LP-gas vapor pressure shall be retested by an authorized Category A, B, or O licensed entity utilizing recognized ASME test methods to determine if the container is safe for LP-gas use in Texas, and the test results shall be submitted to AFS [LP-Gas Operations] on LPG Form 8.

(c) Any stationary ASME LP-gas container which has been subject to continuous LP-gas vapor pressure is not required to be tested prior to installation, provided the licensee or operator of the container files a [properly] completed LPG Form 23 with AFS [LP-Gas Operations] at the time LPG Form 500 is submitted for any facility requiring submission of a site plan in accordance with §9.101 of this title (relating to Filings Required for Stationary LP-Gas Installations).

(d) Any stationary ASME LP-gas container brought into Texas from out-of-state and intended for stationary LP-gas installation in Texas at any facility requiring submission of a site plan shall be tested in accordance with subsection (b) of this section prior to review approval being granted by AFS [LP-Gas Operations], unless that container is owned by a valid licensee. In this case, AFS [LP-Gas Operations] may determine that such tests are not necessary upon the receipt of an acceptable LPG Form 23 from the licensee.

§9.116.Container Corrosion Protection System.

(a) In addition to NFPA 58, §§5.2.1.11, 6.8.6.1(I), 6.8.6.2(A), 6.8.6.3(F), 6.11.3.14 and 6.19.2 [§§6.6.6.1(H), 6.6.6.2(1), and 6.6.6.3(4)], steel containers and steel piping systems installed underground, partially underground, or as mounded installations on or after March 1, 2014, shall include a corrosion protection system.

~~[(b) A corrosion protection system shall include the following:]~~
~~[(1) a container coated with a material recommended for the service that is applied in accordance with the manufacturer's instructions;]~~
~~[(2) a cathodic protection system that consists of one or more sacrificial anodes or an impressed current anode; and]~~

1 ~~[(3) a means to test the performance of the cathodic protection system.]~~

2 (b) ~~[(e)]~~ Cathodic protection systems installed on or after March 1, 2014, [~~in accordance with this~~
3 ~~section]~~ shall be monitored by every licensee servicing the container in accordance with NFPA 58,
4 §6.19.3.1 through 6.19.3.3. Such licensees shall document the test results. [~~A successful test shall be~~
5 ~~confirmed by one of the following results:]~~

6 ~~[(1) producing a voltage of -0.85 volts or more negative, with reference to a saturated~~
7 ~~copper-copper sulfate half cell;]~~

8 ~~[(2) producing a voltage of -0.78 volts or more negative, with reference to a saturated~~
9 ~~potassium chloride-calomel half cell;]~~

10 ~~[(3) producing a voltage of -0.80 volts or more negative, with reference to a silver-silver~~
11 ~~chloride half cell; or]~~

12 ~~[(4) results obtained through any other method described in Appendix D of Title 49 of the~~
13 ~~Code of Federal Regulations, Part 192.]~~

14 ~~[(d) Sacrificial anodes installed in accordance with subsection (b) of this section shall be tested in~~
15 ~~accordance with the following schedule:]~~

16 ~~[(1) upon installation of the cathodic protection system, unless prohibited by climatic~~
17 ~~conditions, in which case testing shall be completed within 180 days after the installation of the system;]~~

18 ~~[(2) for continued verification of the effectiveness of the system, 12 to 18 months after~~
19 ~~the initial test;]~~

20 ~~[(3) upon successful verification of test results for the tests required in paragraphs (1) and~~
21 ~~(2) of this subsection, periodic follow-up testing shall be performed at intervals not to exceed 36 months;]~~

22 ~~[(4) Systems which fail a test prescribed in paragraphs (1) and (2) of this subsection shall~~
23 ~~be repaired as soon as practical unless climatic conditions prevent such repair, in which case the repair~~
24 ~~shall be made not more than 180 days thereafter. Systems which fail a test and for which repairs have~~
25 ~~been made shall comply with the initial and follow-up testing requirements in paragraphs (1) and (2) of~~
26 ~~this subsection, and the results shall comply with subsection (c) of this section.]~~

27 ~~[(e) Where an impressed current cathodic protection system is installed in accordance with~~
28 ~~subsection (b) of this section, the licensee shall inspect and test the system in accordance with the~~
29 ~~following schedule:]~~

30 ~~[(1) all sources of impressed current at intervals not exceeding two months; and]~~

31 ~~[(2) all impressed current cathodic protection installations annually.]~~

32 (c) ~~[(f)]~~ The licensee shall retain documentation of test results in accordance with §9.4 of this title
33 (relating to Records [~~and Enforcement~~]).

1 ~~[(g) The licensee shall visually examine a container prior to its burial for damage to the coating.~~
2 ~~Damaged areas shall be repaired with a coating recommended for underground service and compatible~~
3 ~~with the existing coating.]~~

4 ~~[(h) Partially underground, unrounded containers shall be installed so the aboveground portion~~
5 ~~of the container complies with NFPA 58 §6.6.1.4.]~~

6 (d) [(+) Steel containers and piping systems installed underground, partially underground, or as
7 mounded installations on or after March 1, 2014, shall not be filled unless a cathodic protection system is
8 installed in accordance with this section.

9 ~~[(j) Metallic piping and tubing that convey LP gas from an underground, partially buried, or~~
10 ~~mounded storage container shall be installed with dielectric fittings to electrically isolate the container~~
11 ~~from the aboveground portion of the fixed piping system that enters a building.]~~

12
13 §9.126. Appurtenances and Equipment.

14 (a) All appurtenances and equipment placed into LP-gas service shall be listed by a nationally
15 recognized testing laboratory such as Underwriters Laboratory (UL), Factory Mutual (FM), or American
16 Gas Association (AGA) unless:

17 (1) it is specifically prohibited for use by another section of the rules in this chapter [~~LP-~~
18 ~~Gas Safety Rules~~];

19 (2) - (3) (No change.)

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

24 (c) The licensee or operator of the appurtenances or the equipment shall maintain documentation
25 sufficient to substantiate any claims regarding the safety of any valves, fittings, and equipment and shall,
26 upon request, furnish copies to AFS [~~LP-Gas Operations~~].

27 (d) ASME containers with an individual water capacity over 4,000 gallons shall comply with
28 paragraph (1) or (2) of this subsection:

29 (1) For container openings 1 1/4-inch or greater in size:

30 (A) the container shall be equipped with:

31 (i) a pneumatically operated internal valve equipped for remote closure
32 and automatic shutoff using thermal (fire) actuation where the thermal element is located within five feet
33 (1.5 meters) of the internal valve;

34 (ii) a double back flow check filler valve; or

1 (iii) a positive shutoff valve in combination with a back flow check
2 valve;

3 (B) Any vapor or liquid withdrawal opening 1 1/4-inch or larger with piping
4 attached that exclusively provides service to stationary appliances or equipment and which is not part of a
5 transfer system may be equipped with an excess flow valve and a shutoff valve installed as close as
6 practical to the container in lieu of an internal valve or emergency shutoff valve;

7 (C) For reducing the size of a container opening, only one bushing with a
8 minimum pressure rating in accordance with NFPA 58 Table 5.11.4.2 shall be installed;

9 (D) Container openings that are not compatible with internal valves shall be
10 permitted to utilize both an excess-flow valve installed in the container and an emergency shutoff valve or
11 a valve complying with API 607, *Fire Test Soft-Seated for Quarter Turn Ball Valves Equipped with Non-*
12 *Metallic Seats*, which shall be pneumatically actuated and shall fail in the closed position.

13 (2) For container openings less than 1 1/4-inch in size, the container shall be equipped
14 with:

15 (A) a positive shutoff valve that is located as close to the container as practical in
16 combination with either an excess-flow valve or a back flow check valve installed in the container;

17 (B) a pneumatically operated internal valve with an integral excess-flow valve or
18 excess-flow protection; or

19 (C) a double back flow check filler valve.

20

21 §9.129. Manufacturer's Nameplate and Markings on ASME Containers.

22 (a) - (c) (No change.)

23 (d) Nameplates on stationary ASME containers built prior to September 1, 1984, shall include at
24 least the following legible information:

25 (1) the name of container manufacturer;

26 (2) the manufacturer's serial number;

27 (3) the container's working pressure; ~~and~~

28 (4) the container's water capacity; and

29 (5) the ASME Code symbol.

30 (e) Nameplates on stationary ASME containers built on or after September 1, 1984, shall be
31 stainless steel and permanently attached to the container by continuous fusion welding around the
32 perimeter of the nameplate, and shall be stamped or etched with the ~~following~~ information required by
33 NFPA 58, §5.2.8.3(C) and §11.3.4(B) in characters at least 5/32 inch high.[:]

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

- 1 ~~{{(2) name and address of container supplier or trade name of container;}}~~
2 ~~{{(3) water capacity of container in pounds or U.S. gallons;}}~~
3 ~~{{(4) design pressure in pounds per square inch;}}~~
4 ~~{{(5) the wording "This container shall not contain a product that has a vapor pressure in 4~~
5 ~~excess of _____ psi at 100 degrees F";}}~~
6 ~~{{(6) outside surface area in square feet;}}~~
7 ~~{{(7) year of manufacture;}}~~
8 ~~{{(8) shell thickness and head thickness;}}~~
9 ~~{{(9) overall length of the container, the outside diameter of the container, and dish radius~~
10 ~~of the heads;}}~~
11 ~~{{(10) manufacturer's serial number;}}~~
12 ~~{{(11) ASME Code symbol;}}~~
13 ~~{{(12) minimum design metal temperature _____ F degrees at MAWP _____ psi;}}~~
14 ~~{{(13) type of construction "W"; and}}~~
15 ~~{{(14) degree of radiography "RT _____".}}~~

16 (f) Any replacement nameplate issued by an original container manufacturer for containers
17 constructed prior to September 1, 1984, shall be stainless steel and shall be affixed in accordance with
18 ASME Code. The owner or operator of the container shall ensure that a copy of LPG Form 8 is filed with
19 AFS [LP-Gas Operations] when a replacement nameplate is affixed.

20 (g) - (h) (No change.)

21 (i) AFS [LP-Gas Operations] may remove a container from LP-gas service or require ASME
22 acceptance of a container at any time if AFS [LP-Gas Operations] determines that the nameplate, in any
23 form defined in subsection (a)(1) - (4) of this section, is loose, unreadable, or detached, or if it appears to
24 be tampered with or damaged in any way and does not contain at a minimum the items defined in
25 subsection (d) of this section.

26
27 §9.130. Commission Identification Nameplates.

28 (a) Prior to an original ASME nameplate or any manufacturer-issued nameplate becoming
29 unreadable or detached from a stationary container with a water capacity of 4,001 gallons or more, the
30 owner or operator of the container may request an identification nameplate from AFS [LP-Gas
31 Operations]. Commission identification nameplates shall be issued only for containers which can be
32 documented as being in continuous LP-gas service in Texas from a date prior to September 1, 1984. The
33 container's serial number and manufacturer on the original or manufacturer-issued nameplate shall be
34 clearly readable at the time the Commission identification nameplate is attached.

1 (1) (No change.)

2 (2) AFS [~~LP-Gas Operations~~] shall review LPG Form 502 and the supporting
3 documentation. AFS [~~LP-Gas Operations~~] shall have the manufacturer's data report on file for the
4 container or the licensee shall provide a copy to LP-Gas Operations. The Commission identification
5 nameplate shall not be issued unless the manufacturer's data report is reviewed. Upon review of submitted
6 documents and confirmation of the manufacturer's data report, LP-Gas Operations shall mail a letter to
7 the owner or operator of the container stating the estimated costs, which will be based on the following:

8 (A) - (B) (No change.)

9 (3) The owner or operator of the container shall pay the total estimated costs to AFS [~~LP-~~
10 ~~Gas Operations~~] before AFS [~~LP-Gas Operations~~] will proceed. Within 15 business days of receipt of all
11 required documents and fees, AFS [~~LP-Gas Operations~~] shall:

12 (A) (No change.)

13 (B) inspect the container to ensure that the container is not dented, pitted, or
14 otherwise damaged, and complies with other applicable rules in this chapter [~~LP-Gas Safety Rules~~],
15 unless additional time is necessary as determined by the AFS [~~LP-Gas Operations~~] director; and

16 (C) advise the owner or operator that the container shall be tested if it appears to
17 be pitted or otherwise damaged.

18 (i) (No change.)

19 (ii) If the container passes the test, AFS [~~LP-Gas Operations~~] shall
20 proceed with the attachment of the nameplate.

21 (D) Within the 15-day period, AFS [~~LP-Gas Operations~~] shall notify the
22 applicant in writing, in clear and specific language, of the outcome of AFS' [~~LP-Gas Operations~~'] review.

23 (4) Following AFS' [~~LP-Gas Operations~~'] review of any required tests and payment [~~of all~~
24 ~~other amounts due in addition to the previously paid estimated costs~~], and if AFS determines that [~~when~~]
25 all requirements have been met, AFS [~~LP-Gas Operations~~] shall issue an identification nameplate for the
26 container.

27 (5) - (6) (No change.)

28 (b) (No change.)

29 (c) Commission identification nameplates shall not be valid until AFS [~~LP-Gas Operations~~] has
30 received the final paperwork from the Commission employee who attached the nameplate. AFS [~~LP-Gas~~
31 ~~Operations~~] shall notify [~~mail a letter to~~] the owner or operator of the container in writing stating the date
32 on which the nameplate is valid.

33 (d) If at any time during the Commission identification nameplate request or approval process,
34 the original ASME nameplate becomes completely unreadable or detached, the owner or operator of the

1 container shall immediately remove the container from service and no Commission identification
2 nameplate shall be issued or attached. In addition, AFS [~~LP-Gas Operations~~] may remove such a
3 container from service as specified in §9.129(i) of this title (relating to Manufacturer's Nameplate and
4 Markings on ASME Containers).

5 (e) (No change.)

6 (f) Fees charged for the Commission identification nameplate are nonrefundable except as
7 described in this subsection. The cost of the nameplate is refundable only if the Commission employee
8 finds upon actual inspection of the container that the original nameplate has become totally detached or
9 unreadable, or that the container is pitted, dented, or otherwise damaged, therefore prohibiting attachment
10 of the nameplate. The fees charged relating to AFS' [~~LP-Gas Operations~~] travel and research costs will be
11 refunded only if AFS' [~~LP-Gas Operations~~] research shows that the nameplate cannot be issued.
12 Otherwise, these fees will be nonrefundable if these activities have taken place before the Commission
13 employee inspects a container and finds that a nameplate cannot be issued.

14
15 §9.131. 200 PSIG Working Pressure Stationary Vessels.

16 In addition to NFPA 58, §5.2.4.2 and 5.9.2.5(A), [~~5.7.2.4~~] 200 psig working pressure stationary
17 vessels in LP-gas service in Texas prior to September 1, 1981, may be continued in service for
18 commercial propane provided that they are fitted with pressure relief valves set for 250 psig normal start
19 to discharge and comply with other provisions of this chapter. For the purpose of this section,
20 "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100 degrees
21 Fahrenheit. This section does not apply to LP-gas motor fuel and mobile fuel containers.

22
23 §9.132. Sales to Unlicensed Individuals.

24 A licensee shall not sell LP-gas, an ASME [~~or an LP-gas~~] container, or a DOT cylinder greater
25 than 96 pounds to an unlicensed individual for resale. A licensee shall not sell an LP-gas container to an
26 unlicensed individual for installation without determining that such container will be installed by a
27 licensee authorized to perform such installation.

28
29 §9.134. Connecting Container to Piping.

30 LP-gas piping shall be installed only by a licensee authorized to perform such installation, a
31 registrant authorized by §9.13 of this title (relating to General Installers and Repairman Exemption), or an
32 individual exempted from licensing as authorized by Texas Natural Resources Code, §113.081. A
33 licensee shall not connect an LP-gas container or cylinder to a piping installation made by a person who is
34 not licensed to make such installation, except that connection may be made to piping installed by an

1 individual on that individual's single family residential home. A licensee may connect to piping installed
2 by an unlicensed person provided the licensee has ~~[performed a pressure test,]~~ verified that the piping is
3 free of leaks and has been installed according to the rules in this chapter ~~[LP-Gas Safety Rules]~~, and filed
4 with AFS a ~~[properly-]~~completed LPG Form 22 ~~[with LP-Gas Operations]~~, identifying the unlicensed
5 person who installed the LP-gas piping.

6
7 §9.135. Unsafe or Unapproved Containers, Cylinders, or Piping.

8 In addition to NFPA 58, §§5.2.1.1~~[, 7.2.2.11,]~~ and 5.2.2, a licensee or the licensee's employees
9 shall not introduce LP-gas into any container or cylinder if the licensee or employee has knowledge or
10 reason to believe that such container, cylinder, piping, or the system or the appliance to which it is
11 attached is unsafe or is not installed in accordance with the statutes or the rules in this chapter ~~[LP-Gas~~
12 ~~Safety Rules]~~.

13
14 §9.136. Filling of DOT Containers.

15 (a) In addition to NFPA 58 §7.4.2.1, single-opening DOT containers of less than 101 pounds LP-
16 gas capacity~~[, other than containers designed to be used on forklift or industrial trucks,]~~ shall be filled by
17 weight only. The weight of such containers shall be determined by scales that meet the specifications of
18 the National Institute of Standards and Technology's Handbook 44. Scales at licensees' facilities shall be
19 currently registered with the Texas Department of Agriculture. The scales shall have a rated weighing
20 capacity which exceeds the total weight of the cylinders being filled. The scales shall be accurate during
21 the filling of the cylinder. The formula for filling LP-gas containers by weight under this section is as
22 follows:

23 (1) The propane capacity in pounds is determined by multiplying the total water capacity
24 in pounds by .42.

25 (2) The proper scale setting is the total of ~~[Add]~~ the tare weight of the ~~[a]~~ cylinder, the
26 propane capacity in pounds, and ~~[to the liquid weight of the product plus]~~ the weight of the hose and
27 nozzle. ~~[The total weight of these three is the proper scale setting.]~~

28 (b) Containers designed to be used on forklifts or industrial trucks shall be filled as specified in
29 NFPA 58, §11.13 ~~[§11.12]~~.

30
31 §9.137. Inspection of Cylinders at Each Filling.

32 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
33 cylinder, the individual filling the container or cylinder shall conduct a visual inspection of the exposed,
34 readily accessible areas of the container or cylinder for any obvious defects. Where the container or

1 cylinder is dented, bulged, gouged, or corroded such that the integrity of the container or cylinder is
2 substantially reduced, such container or cylinder shall not be filled.

3
4 §9.140. System [~~Uniform~~] Protection Requirements [~~Standards~~].

5 (a) Stationary LP-gas installations, including LP-gas transfer systems, dispensing systems, and
6 storage containers, shall be protected from tampering and damage as specified in this section. [~~In addition~~
7 ~~to NFPA 58 §6.24.3.14, LP-gas transfer systems and storage containers shall be protected from tampering~~
8 ~~and/or vehicular traffic as specified in this section. New LP-gas containers which have never been~~
9 ~~installed or had LP-gas introduced into them, or other installations listed in paragraphs (1)–(4) of this~~
10 ~~subsection, are not required to comply with the fencing and guard-railing requirements in subsections (b)~~
11 ~~and (d) of this section. The fencing and guard-railing requirements also do not apply to the following:]~~

12 [~~(1) LP-gas systems and containers located at private residences;]~~

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

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

18 (b) [(4)] LP-gas storage containers located on a rural consumer's property from which motor or
19 mobile fuel containers are filled are not required to comply with the fencing and vehicular barrier
20 protection requirements in subsections (c) and (d) of this section.

21 (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,~~
22 ~~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
23 following:

24 [(1) ~~Fencing material shall be chain link with wire at least 12 1/2 American wire gauge in~~
25 ~~size, or industrial type fencing, or material providing equivalent protection as determined by LP-Gas~~
26 ~~Operations.]]~~

27 [(2) ~~Fencing shall be at least six feet in height at all points.]]~~

28 (1) [(3)] Uprights, braces, and cornerposts of the fence shall be composed of
29 noncombustible material.

30 (2) [(4)] Gates in fences where bulkheads are installed shall be located directly in front of
31 the bulkhead. Gates shall be locked whenever the area enclosed is unattended. Gate posts on gates
32 installed directly in front of the bulkhead shall be located at 45-degree angles to the nearest corner of the
33 bulkhead. [~~There shall be at least two means of emergency access from the fenced enclosure. If guard~~
34 ~~service is provided, it shall be extended to the LP-gas installation. Guard service shall be properly trained~~

1 as set forth in ~~§9.51(b)(4)~~ of this title ~~(relating to General Requirements for Training and Continuing~~
2 ~~Education)~~. However, if a fenced area is not larger than 100 square feet in area, the point of transfer is
3 within three feet of a gate, and any containers being filled are not located within the enclosure, a second
4 gate shall not be required.]

5 ~~[(5) Clearance of at least three feet shall be maintained between the fencing and the~~
6 ~~container and the entire transfer system.]~~

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

11 ~~[(7) The operating end of a container, including the entire transfer system, shall be~~
12 ~~completely enclosed by fencing.]~~

13 ~~[(e)] [Containers which are exempt from the fencing requirements include:]~~

14 ~~(3) [(1)] ASME containers or manual dispensers originally manufactured to or modified~~
15 ~~to be considered by AFS [LP-Gas Operations] as self-contained units. Self-contained units shall be~~
16 ~~protected as specified in subsection (d) of this section.[:]~~

17 ~~(4) LP-gas containers located at a private residence are exempt from the fencing~~
18 ~~requirements.~~

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

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

23 ~~(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,~~
24 ~~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,~~
25 ~~guardrails] at LP-gas installations, except as noted in this section [subsection (a) of this section], shall~~
26 ~~comply with the following:~~

27 ~~[(1) In addition to NFPA 58 §6.18.4.2(c), where fencing is not used to protect the~~
28 ~~installation as specified in subsection (b) of this section, locks for the valves or other suitable means shall~~
29 ~~be provided to prevent unauthorized withdrawal of LP-gas, and guardrailing specified in paragraphs (2)-~~
30 ~~(6) of this subsection, or protection considered by LP-Gas Operations to be equivalent, shall be required.]~~

31 ~~(1) [(2)] Vertical supports for vehicular barrier protection [guardrails] shall be at least~~
32 ~~three-inch schedule 40 steel pipe or other material with equal or greater strength. The vertical supports~~
33 ~~shall be capped on the top or otherwise protected to prevent the entrance of water or debris [into the~~

1 ~~guardpost~~]; anchored in concrete at least 18 inches below the ground; and rise at least 30 inches above the
2 ground. Supports shall be spaced four feet apart or less.

3 (2) [(3)] The ~~top of the~~ horizontal guardrailing for vehicular barrier protection shall be
4 secured to the top of the vertical supports at least 30 inches above the ground. The railing [~~horizontal~~
5 ~~guardrailing~~] shall be at least three-inch schedule 40 steel pipe or other material with equal or greater
6 strength. The railing [~~horizontal guardrailing~~] shall be capped on the ends or otherwise protected to
7 prevent the entrance of water or debris [~~into the guardpost~~]; and welded or bolted to the vertical supports
8 with bolts of sufficient size and strength to prevent damage to the protected equipment under normal
9 conditions, including the nature of the traffic to which the protected equipment is subjected.

10 (3) [(4)] Openings in horizontal guardrailing, except the opening that is permitted directly
11 in front of a bulkhead, shall not exceed three feet. Only one opening is allowed on each side of the
12 guardrailing. A means of temporarily removing the horizontal guardrailing and vertical supports to
13 facilitate the handling of heavy equipment may be incorporated into the horizontal guardrailing and
14 vertical supports. In no case shall the protection provided by the horizontal guardrailing and vertical
15 supports be decreased. Transfer hoses from the bulkhead shall be routed only through the 45-degree
16 opening in front of the bulkhead or over the horizontal guardrailing.

17 (4) [(5)] Clearance of at least three feet shall be maintained between the vehicular barrier
18 protection [~~railing~~] and any part of an LP-gas transfer system or container or clearance of two feet for
19 retail [~~cylinder filling or~~] service station installations. The two vertical supports [~~posts~~] at the ends of any
20 vehicular barrier protection [~~railing~~] which protects a bulkhead shall be located a minimum of 24 and a
21 maximum of 36 inches at 45-degree angles to the nearest corner of the bulkhead.

22 (5) [(6)] Vehicular barrier [~~The operating end of the container and any part of the LP-gas~~
23 ~~transfer system or container which is exposed to collision damage or vehicular traffic shall be protected~~
24 ~~from this type of damage. The~~] protection shall extend at least three feet beyond any part of the LP-gas
25 transfer system or container which is exposed to collision damage or vehicular traffic.

26 (6) Installations which have highway barriers located between vehicular traffic and the
27 container and material handling equipment shall not be required to have vehicular barrier protection
28 installed.

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

31 (e) [(f)] If exceptional circumstances exist or will exist at an installation which would require
32 additional protection such as larger-diameter horizontal railing [~~guardrailing~~], then the licensee or
33 operator shall install such additional protection. In addition, AFS [~~LP-Gas Operations~~] at its own
34 discretion may require an installation to be protected with added safeguards to adequately protect the

1 health, safety, and welfare of the general public. ~~AFS [LP-Gas Operations]~~ shall notify the person in
2 writing of the additional protection needed and shall establish a reasonable time period during which the
3 additional protection shall be installed. The licensee shall ensure that any necessary extra protection is
4 installed. If a person owning or operating such an installation disagrees with ~~AFS' [LP-Gas Operations']~~
5 determination made under this subsection, that person may request a public hearing on the matter. The
6 installation shall either be protected in the manner prescribed by ~~AFS [LP-Gas Operations]~~ or removed
7 from service with all product withdrawn from it until ~~AFS' [LP-Gas Operations']~~ final decision.

8 (f) ~~(g)~~ In addition to NFPA 58 §5.2.8.1, LP-gas installations shall comply with the sign and
9 lettering requirements specified in Table 1 of this subsection ~~[section]~~. An asterisk indicates that the
10 requirement applies to the equipment or location listed in that column.

11 Figure: 16 TAC §9.140(f)

12 (1) Unless colors are specified, lettering shall be in a color that sharply contrasts to the
13 background color of the sign, and shall be readily visible to the public.

14 (2) Items 1, 2, and 3 in Table 1 may be combined on one sign.

15 (3) Items 1, 2, and 3 in the column entitled "Licensee or Non-Licensee ASME 4001+
16 Gal. A.W.C." in Table 1 apply to installations with 4,001 gallons or more aggregate water capacity
17 protected only by guardrailing as required in subsection (d) of this section, and bulkheads as required by
18 §9.143 of this title (relating to Piping and Valve ~~[Bulkhead, Internal Valve, API 607 Ball Valve, and~~
19 ~~ESV]~~ Protection for Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of
20 4,001 Gallons or More) for commercial, bulk storage, cylinder filling, or forklift installations.

21 (4) Item 11 in the column entitled "Requirements" in Table 1 applies to facilities which
22 have two or more containers.

23 (5) Item 13 in the column entitled "Requirements" in Table 1 applies to outlets where an
24 LP-gas certified employee is responsible for the LP-gas activities at that outlet, when a licensee's
25 employee is the operations supervisor at more than one outlet as required by §9.17(a) of this title (relating
26 to Designation and Responsibilities of Company Representative and Operations Supervisor).

27 (6) Any information in Table 1 of this subsection required for an underground container
28 shall be mounted on a sign posted within 15 feet horizontally of the manway or the container shroud.

29 (7) Licensees and non-licensees shall comply with operational and/or procedural actions
30 specified by the signage requirements of this section.

31 (8) Any 24-hour emergency telephone numbers shall be:

32 (A) monitored at all times; and

33 (B) be answered by a person who is knowledgeable of the hazards of LP-gas and
34 who has comprehensive LP-gas emergency response and incident information, or has immediate access to

1 a person who possesses such knowledge and information. A telephone number that requires a call back
2 (such as an answering service, answering machine, or beeper device) does not meet the requirements of
3 this section.

4 (g) ~~(h)~~ In addition to NFPA 58, §8.4.2.2, storage ~~[Storage]~~ racks used to store nominal 20-
5 pound DOT portable or any size forklift containers shall be protected against vehicular damage by:

6 (1) meeting the guardrail requirements of subsection (d) of this section; or

7 (2) installing guard posts, provided[;]

8 [(A)] ~~[effective February 1, 2008, for new installations,]~~ the guard posts are
9 installed a minimum of 18 inches from each storage rack, and;

10 (A) consist of at least three-inch schedule 40 steel pipe, capped on top or
11 otherwise protected to prevent the entrance of water or debris into the guard post, no more than four feet
12 apart, and anchored in concrete at least 30 inches below ground and rising at least 30 inches above the
13 ground; or

14 (B) ~~are [effective February 1, 2008, for new installations, the guard posts are~~
15 ~~installed a minimum of 18 inches from each storage rack and are]~~ constructed of at least four-inch
16 schedule 40 steel pipe capped on top or otherwise protected to prevent the entrance of water or debris into
17 the guard post, and attached by welding to a minimum 8-inch by 8-inch steel plate at least 1/2 inch thick.
18 The guard posts and 8 steel plate shall be permanently installed and securely anchored to a concrete
19 driveway or concrete parking area.

20 (3) Guardrail or guard posts are not required to be installed if:

21 (A) the cylinder storage rack is located a minimum of 48 inches behind a
22 concrete curb or concrete wheel stop that is a minimum of five inches in height above the grade of the
23 driveway or parking area; or

24 (B) if the requirements of subparagraph (A) of this paragraph cannot be met, the
25 cylinder storage rack must be installed a minimum of 48 inches behind a concrete curb or concrete wheel
26 stop that is a minimum of four inches in height above the grade of the driveway or parking area, and a
27 concrete wheel stop at least four inches in height must be installed at least 12 inches from the curb or first
28 wheel stop;

29 (4) All parking wheel stops and cylinder storage racks in paragraph (3) of this subsection
30 must be secured against displacement.

31 (h) ~~(i)~~ Self-service dispensers shall be protected against vehicular damage by:

32 (1) vehicular barrier protection ~~[guardrails]~~ that complies ~~[comply]~~ with subsection (d)
33 ~~[(d)(2)–(6)]~~ of this section; or

1 (2) vertical supports [~~guard posts~~] that comply with subsection (d) [~~(d)(2)~~] of this section;
2 or

3 (3) where routine traffic patterns expose only the approach end of the dispenser to
4 vehicular damage, support columns, concrete barriers, bollards, inverted U-shaped guard posts anchored
5 in concrete, or other protection acceptable to AFS [~~LP-Gas Operations~~], provided:

6 (A) - (B) (No change.)

7 (i) [~~(4)~~] Self-service dispensers utilizing protection specified in paragraphs (2) - (3) of [~~this~~]
8 subsection (h) of this section shall be connected to supply piping by a device designed to prevent the loss
9 of LP-gas in the event the dispenser is displaced. The device must retain liquid on both sides of the
10 breakaway point and be installed in a manner to protect the supply piping against damage.

11

12 §9.141. Uniform Safety Requirements.

13 (a) In addition to NFPA 58, §6.8.1.4 [~~§6.6.1.4~~], containers shall be painted as follows:

14 (1) (No change.)

15 (2) If AFS [~~LP-Gas Operations~~] disapproves of a certain color, the licensee or ultimate
16 consumer shall provide to AFS [~~LP-Gas Operations~~] information from the container or paint
17 manufacturer stating specific reasons why the color is heat-reflective and should be approved. The AFS
18 [~~LP-Gas Operations~~] director shall make the final determination and shall notify the licensee or ultimate
19 consumer.

20 (b) In addition to NFPA 58, §6.27.4.2 [~~§6.24.4.2~~], each LP-gas private or public motor/mobile or
21 forklift refueling installation which includes a liquid dispensing system shall incorporate into that
22 dispensing system a breakaway device.

23 (1) Any vapor return hose installed at such installations shall also be equipped with a
24 breakaway device.

25 (2) LP-gas installations at which forklift cylinders are completely removed from the
26 forklift before being filled are not required to have a breakaway device.

27 (c) [~~Locking handles on ball-type shutoff valves~~]. Any ball-type shutoff valve less than two
28 inches in size shall have a locking handle. If a ball-type shutoff valve of any size has a locking handle
29 installed at the terminal end of the hose, the main liquid and/or vapor valves or main shutoff valves on the
30 stationary container at an attended installation may remain open as long as the locking handle on the
31 transfer hose remains locked until the transfer hose is properly connected. If a ball-type shutoff valve two
32 inches or larger in size does not have a locking handle, the main liquid and/or vapor valves or main
33 shutoff valves on the stationary container shall remain closed at all times and shall not be opened until the
34 transfer hose is properly connected or disconnected.

1 (d) ~~Pumps~~. A retail operated ~~[DOT portable container filling installation and/or]~~ service station
2 installation shall be equipped with a pump.

3 (e) In addition to NFPA 58, §5.2.8.1, all containers shall be numbered in accordance with the
4 requirements set forth in Table 1 of §9.140 of this title (relating to System [Uniform] Protection
5 Requirements [Standards]).

6 (f) In addition to NFPA 58, §6.5.4.1 [§6.4.7], no canopies or coverings are allowed over any
7 stationary ASME [LP-gas] container of 125 gallons or more or over loading and unloading areas where
8 LP-gas transport transfer operations are performed. Non-combustible wind breaks and other weather
9 protection may be installed in accordance with NFPA 58, §6.7.1.1 and §6.25.3.3 to provide employees
10 and customers protection against the elements of weather, but shall not be installed over any portion of an
11 LP-gas container.

12 (g) Any container that may have contained product other than LP-gas shall be thoroughly cleaned
13 and purged prior to introducing LP-gas into such container. Only grades of LP-gas determined to be
14 noncorrosive may be introduced into any container. LP-gas may not contain anhydrous ammonia,
15 hydrogen sulfide, or any other contaminant.

16 (1) If it is known or suspected that the LP-gas has been or may be contaminated, the
17 person responsible for the contamination shall have one or more of the tests contained in "Liquefied
18 Petroleum Gas Specifications for Test Methods, Gas Processors Association (GPA) 2140" performed by a
19 testing laboratory or individual qualified to perform the tests. AFS [LP-Gas Operations] may request
20 information necessary to determine the qualification of any testing laboratory or individual.

21 (2) (No change.)

22 (3) Based on the results of the tests, AFS [LP-Gas Operations] may require that the LP-
23 gas be removed immediately from the container or that the container be removed immediately from LP-
24 gas service.

25 (h) (No change.)

26
27 §9.142. LP-Gas Container Storage and Installation Requirements.

28 Except as noted in this section and in addition to NFPA 58 §6.4.1.1 [§6.3.1], LP-gas containers
29 shall be stored or installed in accordance with the distance requirements in NFPA 58, §§6.2.2, 6.4.4
30 [6.4.5], and 8.4.1 and any other applicable requirements in NFPA 58 or the rules in this chapter [LP-Gas
31 Safety Rules].

32 (1) An LP-gas liquid dispensing installation other than a retail operated ~~[DOT portable~~
33 ~~container filling/]~~ service station installation is not required to have a pump, provided that the storage

1 containers are located one and one half times the required distances specified in NFPA 58, §6.4.1.1
2 [~~§6.2.2~~], or a minimum distance of 15 feet if the storage container is less than 125 gallons water capacity.

3 (2) (No change.)

4
5 §9.143. Piping and Valve [~~Bulkhead, Internal Valve, API 607 Ball Valve, and ESV~~] Protection for
6 Stationary LP-Gas Installations with Individual or Aggregate Water Capacities of 4,001 Gallons or More.

7 (a) Instead of NFPA 58, §6.14, all [~~§6.6.12, effective February 1, 2001,~~] new stationary LP-gas
8 installations with individual or aggregate water capacities of 4,001 gallons or more[~~, including licensee~~
9 ~~and nonlicensee locations,~~] shall:

10 (1) install a vertical bulkhead complying with subsection (d) of this section;[~~;~~] and

11 (2) install one of the following in [~~for~~] all container openings 1 1/4 inches or greater,
12 [~~pneumatically-operated emergency shutoff valves (ESV), pneumatically-operated internal valves, or~~
13 ~~pneumatically-operated API 607 ball valves~~] as required in this section and §9.126 of this title (relating to
14 Appurtenances and Equipment):

15 (A) pneumatically-operated emergency shutoff valves (ESV);

16 (B) pneumatically-operated internal valves;

17 (C) pneumatically-operated API 607 ball valves; or

18 (D) in lieu of the ESV or internal valve specified in subparagraphs (A) and (B) of
19 this paragraph, a backflow check valve may be installed where the flow is in one direction into the
20 container. The backflow check valve shall have a metal-to-metal seat or a primary resilient seat with
21 metal backup, not hinged with combustible material, and shall be designed for the specific application. [~~in~~
22 the table in §9.403 of this title (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted
23 With Changes or Additional Requirements) for NFPA 58, §6.11.1. In lieu of a pneumatically-operated
24 internal valve or a pneumatically-operated ESV, a backflow check valve may be installed where the flow
25 is in one direction into the container. The backflow check valve shall have a metal-to-metal seat or a
26 primary resilient seat with metal backup, not hinged with combustible material, and shall be designed for
27 this specific application.]

28 (b) Valve protection requirements.

29 (1) The pneumatic ESV and/or backflow check valves shall be installed in the fixed
30 piping of the transfer system upstream of the bulkhead and within four feet of the bulkhead with a
31 stainless steel flexible wire-braided hose not more than 36 inches long installed between the ESV and the
32 bulkhead.

33 (2) The ESV shall be installed in the piping so that any break resulting from a pull away
34 will occur on the hose or swivel-type piping side of the connection while retaining intact the valves and

1 piping on the storage side of the connection and will activate the ESV at the bulkhead and the internal
2 valves, ESV, and API 607 ball valves at the container or containers. Provisions for anchorage and
3 breakaway shall be provided on the cargo tank side for transfer from a railroad tank car directly into a
4 cargo tank. Such anchorage shall not be required from the tank car side.

5 (3) Pneumatically-operated ESV, internal valves, and API 607 ball valves shall be
6 equipped for automatic shutoff using thermal (fire) actuation where the thermal element is located within
7 five feet (1.5 meters) of the ESV, internal valves, and/or API 607 ball valves. Temperature sensitive
8 elements shall not be painted nor shall they have any ornamental finishes applied after manufacture.

9 (4) Internal valves, ESVs, and backflow check valves shall be tested annually for
10 working order. The results of the tests shall be documented in writing and kept in a readily accessible
11 location for one year following the performed tests.

12 (5) Pneumatically-operated internal valves, ESV, and API 607 ball valves shall be
13 interconnected and incorporated into at least one remote operating system.

14 (c) [~~(b)~~] In addition to NFPA 58 §5.9.4.1, [~~§5.9.6, within two years of February 1, 2001, or by~~
15 ~~February 1, 2003, at the latest,~~] stationary LP-gas installations [~~in existence as of February 1, 2001, with~~
16 ~~individual or aggregate water capacities of 4,001 gallons or more, including licensee and nonlicensee~~
17 ~~locations,~~] or railroad tank car transfer systems to fill trucks with no stationary storage involved[, ~~which~~
18 ~~do not have a bulkhead, ESV, and/or backflow check valves where the flow is in one direction into the~~
19 ~~container~~] shall have [~~install~~] vertical bulkheads, pneumatic ESV and/or backflow check valves installed
20 where the flow is in one direction into the container. ESVs, internal valves, and API 607 ball valves shall
21 have emergency remote controls conspicuously marked according to the requirements of Table 1 of
22 §9.140 of this title (relating to System Protection Requirements) as follows:

23 (1) For all new and existing facilities, where a bulkhead, internal valves, and ESVs are
24 installed, at least one clearly identified and easily accessible manually operated remote emergency shutoff
25 device shall be located between 20 and 100 feet from the ESV in the path of egress from the ESV.

26 (2) In addition to NFPA 58 §7.2.3.8 beginning September 1, 2005, for new installations,
27 at least one clearly identified and easily accessible manually operated remote emergency shutoff device
28 shall be located between 25 and 100 feet from the ESV at the bulkhead and in the path of egress from the
29 ESV. API 607 ball valves installed after February 1, 2008, shall also meet the requirements of this
30 section.

31 (d) [~~(e)~~] Existing installations which have horizontal bulkheads and cable-actuated ESV shall
32 comply with the following:

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

1 (2) If a cable-actuated ESV requires replacement, it shall be replaced with a
2 pneumatically-operated ESV;

3 (3) If the horizontal bulkhead or a backflow check valve or a cable-actuated ESV are
4 moved from their original location to another location, no matter what the distance from the original
5 location, then the installation shall comply with the requirements for a vertical bulkhead and
6 pneumatically-operated ESV;

7 (4) All cable-actuated ESV shall be replaced with pneumatically-operated ESV by
8 January 1, 2011.

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

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

11 (2) No more than two transfer hoses shall be attached to a pipe riser. If two hoses are
12 simultaneously connected to one or two transports, the use of the two hoses shall not prevent the
13 activation of the ESV in the event of a pull away;

14 (3) Both liquid and vapor transfer hoses shall be plugged or capped when not in use;

15 (4) Bulkheads shall be located at least 10 feet from any aboveground container or
16 containers and a minimum of 10 feet horizontally from any portion of a container or valve exposed
17 aboveground on any underground or mounded container. If the 10-foot distance cannot be obtained, the
18 licensee or nonlicensee shall inform AFS [~~the Safety Division (the Division)~~] in writing and include all
19 necessary information. AFS [~~The Division~~] may grant administrative distance variances to a minimum
20 distance of five feet. If the licensee or nonlicensee requests that the bulkhead be closer than five feet to
21 the container or containers, the licensee or nonlicensee shall apply for an exception to a safety rule as
22 specified in §9.27 of this title (relating to Application for an Exception to a Safety Rule);

23 (5) Horizontal bulkheads shall not be converted to vertical bulkheads;

24 (6) Bulkheads shall be anchored in reinforced concrete to prevent displacement of the
25 bulkhead, piping, and fittings in the event of a pullaway;

26 (7) Bulkheads shall be constructed by welding using the following materials or materials
27 with equal or greater strength, as shown in the diagram.

28 Figure: 16 TAC §9.143(e)(7)

29 (A) Six-inch steel channel iron shall be used;

30 (B) Legs shall be four-inch schedule 80 piping;

31 (C) The top crossmember of a vertical bulkhead shall be six-inch
32 standard weight steel channel iron. The channel iron shall be installed so the channel portion is pointing
33 downward to prevent accumulation of water or other debris. The height of the top crossmember above

1 ground shall not result in torsional stress on the vertical supports of the bulkhead in the event of a
2 pullaway;

3 (D) The kick plate shall be at least 1/4 inch steel plate installed at least
4 10 inches from the top of the bulkhead crossmember. A kick plate is not required if the crossmember is
5 constructed to prevent torsional stress from being placed on the piping to the pipe risers;

6 (E) Either a schedule 40 pipe sleeve or a 3,000-pound coupling shall be
7 welded between the top crossmember and the kick plate;

8 (i) Pipe sleeves shall have a clearance of 1/4 inch or less for the
9 piping to the pipe riser, and the piping shall terminate through the bulkhead with a schedule 80 pipe
10 collar, a minimum 12-inch schedule 80 threaded (not welded) pipe riser (nipple), and an elbow or other
11 fitting between the bulkhead and hose coupling;

12 (ii) If a 3,000-pound coupling is used, no collar is required;
13 however, the minimum 12-inch length of schedule 80 threaded pipe riser and an elbow or other fitting
14 between the bulkhead and hose coupling are required;

15 (iii) Elbows or other fittings shall comply with NFPA 58,
16 §5.11.4 [~~§2.4.4~~] and shall direct the transfer hose from vertical to prevent binding or kinking of the hose.

17 (8) In lieu of a minimum 12-inch nipple on [~~or~~] a vertical bulkhead, swivel-type piping
18 (breakaway loading arm) may be installed. The swivel-type piping shall meet all applicable provisions of
19 the rules in this chapter [~~LP-Gas Safety Rules~~]. The swivel-type piping may also be used for loading,
20 unloading, or product transfer, but shall not be used in lieu of ESVs. The swivel-type piping shall be
21 installed and maintained according to the manufacturer's instructions.

22 (9) AFS [~~LP-Gas Operations~~] may require additional bulkhead protection if the
23 installation is subject to exceptional circumstances or located in an unusual area where additional
24 protection is necessary to protect the health, safety, and welfare of the general public.

25 ~~[(e) In addition to NFPA 58, §5.7.4.2 as amended in the table in §9.403 of this title (relating to~~
26 ~~Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional~~
27 ~~Requirements), ESVs, internal valves, and API 607 ball valves shall have emergency remote controls~~
28 ~~eonspiciuously marked according to the requirements of Table 1 of §9.140 of this title (relating to Uniform~~
29 ~~Protection Standards) as follows:]~~

30 ~~[(1) Effective February 1, 2001, for all new facilities, where a bulkhead, internal valves,~~
31 ~~and ESVs are installed, at least one clearly identified and easily accessible manually operated remote~~
32 ~~emergency shutoff device shall be located between 20 and 100 feet from the ESV in the path of egress~~
33 ~~from the ESV. Existing installations shall have complied by August 1, 2001.]~~

1 ~~{(2) Beginning September 1, 2005, for new installations, at least one clearly identified~~
2 ~~and easily accessible manually operated remote emergency shutoff device shall be located between 25~~
3 ~~and 100 feet from the ESV at the bulkhead and in the path of egress from the ESV. API 607 ball valves~~
4 ~~installed after February 1, 2008, shall also meet the requirements of this section.}~~

5 ~~{(3) The use of swivel type piping as specified in subsection (d)(8) of this section shall~~
6 ~~not eliminate the requirement for an ESV. Swivel type piping may be installed between the bulkhead and~~
7 ~~the minimum 12 inch nipple, but shall not eliminate the requirement for an ESV. The swivel type piping~~
8 ~~shall be installed and maintained according to the manufacturer's instructions.}~~

9 (f) The bulkheads, internal valves, backflow check valves, and ESVs shall be kept in working
10 order at all times in accordance with the manufacturer's instructions and the rules in this chapter [~~LP-Gas~~
11 ~~Safety Rules~~]. If the bulkheads, internal valves, backflow check valves and ESVs are not in working order
12 in accordance with the manufacturer's instructions and the rules in this chapter [~~LP-Gas Safety Rules~~], the
13 licensee or operator of the installation shall immediately remove them from LP-gas service and shall not
14 operate the installation until all necessary repairs have been made.

15 (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,
16 rubber flexible connectors which are 3/4-inch or larger in size installed in liquid or vapor piping at an
17 existing liquid transfer operation shall have been replaced with a stainless steel flexible connector.
18 Stainless steel flexible connectors shall be 60 inches in length or less, and shall comply with all applicable
19 rules in this chapter [~~LP-Gas Safety Rules~~]. Flexible connectors installed at a new installation after
20 February 1, 2001, shall be stainless steel.

21 (h) If necessary to increase LP-gas safety, AFS [~~LP-Gas Operations~~] may require a
22 pneumatically-operated internal valve equipped for remote closure and automatic shutoff through thermal
23 (fire) actuation to be installed for certain liquid and/or vapor connections with an opening of 3/4 inch or
24 one inch in size.

25 (i) Stationary LP-gas installations with individual or aggregate water capacities of 4,001 gallons
26 or more are exempt from subsections (a) through (c) [~~and (b)~~] of this section provided:

27 (1) each container is filled solely through a 1 3/4 inch double back check filler valve
28 installed directly into the container; [~~and~~]

29 (2) at least one clearly identified and easily accessible manually operated remote
30 emergency shutoff device shall be located between 25 and 100 feet from the point of transfer in the path
31 of egress to close the primary discharge valves in the containers; and

32 (3) the LP-gas installation is not used to fill an LP-gas transport.

33
34 SUBCHAPTER C. VEHICLES [~~AND VEHICLE DISPENSERS~~]

1 §9.201. Applicability.

2 (a) This subchapter applies to transport containers and moveable fuel storage tenders such as farm
3 carts constructed to MC-330 or MC-331 Department of Transportation (DOT) specifications,
4 nonspecification units, container delivery units, school buses, mass transit vehicles, special transit
5 vehicles, and public transportation vehicles.

6 (1) Transfer of LP-gas from one transport to another shall be permitted only through a
7 hose with a nominal inside diameter of 1 1/4 inch or less and protected by an off-truck remote control
8 shutdown as required in Title 49 Code of Federal Regulations (CFR) §173.315(n)(3) [CFR].

9 (2) An LP-gas transport shall not be joined to manifold piping or to a stationary container
10 for use as an auxiliary storage container at any stationary installation except with prior approval from
11 AFS [LP-Gas Operations].

12 (b) All transports and moveable fuel storage tenders shall comply with MC-330 or MC-331, or
13 the exemption in 49 CFR [Title 49, Code of Federal Regulations (CFR),] §173.315(k).

14 (c) Licensees and ultimate consumers shall comply with other DOT or motor vehicle
15 requirements, if applicable. In addition, transports and container delivery units shall also comply with the
16 applicable sections of [Title] 49 CFR, the Federal Motor Vehicle Safety Standards, and any other
17 applicable regulations. Examples of such additional requirements are as follows:

18 (1) 49 CFR §177.834(j) states: "Except for a cargo tank conforming to §173.29(b)(2) of
19 this subchapter, a person may not drive a cargo tank motor vehicle containing a hazardous material
20 regardless of quantity unless: (1) All manhole closures are closed and secured; and (2) All valves and
21 other closures in liquid discharge systems are closed and free of leaks, except external emergency self-
22 closing valves on MC 338 cargo tanks containing the residue of cryogenic liquids may remain either open
23 or closed during transit."

24 (2) 49 CFR §177.840(g) states: "Each liquid discharge valve on a cargo tank motor
25 vehicle, other than an engine fuel line valve, must be closed during transportation except during loading
26 and unloading."

27 (3) (No change.)
28

29 §9.202. Registration and Transfer of LP-Gas Transports or Container Delivery Units.

30 (a) A person who operates a transport equipped with LP-gas cargo tanks or any container delivery
31 unit, regardless of who owns the transport or unit, shall register such transport or unit with AFS [LP-Gas
32 Operations] in the name or names under which the operator conducts business in Texas prior to the unit
33 being used in LP-gas service.

34 (1) To register a unit previously unregistered in Texas, the operator of the unit shall:

1 (A) pay to AFS [LP-Gas Operations] the \$270 registration fee for each bobtail
2 truck, semitrailer, container delivery unit, or other motor vehicle equipped with LP-gas cargo tanks; ~~and~~

3 (B) file a properly completed LPG Form 7;~~[-]~~

4 (C) file a copy of the Manufacturer's Data Report;

5 (D) file a copy of the DOT Certificate of Compliance; and

6 (E) file a copy of the hydrostatic or pneumatic test required by §9.208 of this title
7 (relating to Testing Requirements), unless the unit was manufactured within the previous five years or 10
8 years for units which meet the exemption in 49 CFR 180.407(c).

9 (2) To register an MC-330/MC-331 specification unit which was previously registered in
10 Texas but for which the registration has expired, the operator of the unit shall:

11 (A) pay to AFS [LP-Gas Operations] the \$270 registration fee;

12 (B) file a properly completed LPG Form 7; and

13 (C) file a copy of the latest test results if an expired unit has not been used in the
14 transportation of LP-gas for over one year or if a current hydrostatic test has not been filed with AFS.

15 (3) To re-register a currently registered unit, the licensee operating the unit shall pay a
16 \$270 annual registration fee.

17 (4) ~~(3)~~ To transfer a currently registered unit, the new operator of the unit shall:

18 (A) pay the \$100 transfer fee for each unit; and

19 (B) file a properly completed LPG Form 7.

20 (b) AFS [LP-Gas Operations] may also request that an operator registering or transferring any
21 unit~~[-]~~

22 ~~{(1) file a copy of the Manufacturer's Data Report; or}~~

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

25 (c) When all registration or transfer requirements have been met, AFS [LP-Gas Operations] shall
26 issue LPG Form 4 which shall be properly affixed in accordance with the placement instructions on the
27 form. LPG Form 4 shall authorize the licensee or ultimate consumer to whom it has been issued and no
28 other person to operate such unit in the transportation of LP-gas and to fill the transport containers.

29 (1) A person shall not operate an LP-gas transport unit or container delivery unit in Texas
30 unless the LPG Form 4 has been properly affixed or unless its operation has been specifically approved
31 by AFS [LP-Gas Operations].

32 (2) A person shall not introduce LP-gas into a transport container unless that unit bears an
33 LPG Form 4 or unless specifically approved by AFS [LP-Gas Operations].

34 (3) (No change.)

1 (4) This subsection shall not apply to:

2 (A) a container manufacturer/fabricator who introduces a reasonable amount of
3 LP-gas into a newly constructed container in order to properly test the vessel, piping system, and
4 appurtenances prior to the initial sale of the container. The liquid LP-gas shall be removed from ~~form~~
5 the transport container prior to the unit leaving the container manufacturer/fabricator's premises; or

6 (B) a person who introduces a maximum of 150 gallons of LP-gas into a newly
7 constructed transport container when such container will provide the motor fuel to the chassis engine for
8 the purpose of allowing the unit to reach its destination.

9 (5) AFS ~~[LP-Gas Operations]~~ shall not issue an LPG Form 4 if:

10 (A) AFS ~~[LP-Gas Operations]~~ or a Category A, B, or O licensee determines that
11 the transport is unsafe for LP-gas service;

12 (B) AFS ~~[LP-Gas Operations]~~ does not have an inspection record of the transport
13 or cylinder delivery unit by a Commission representative within four years of its initial registration ~~[on or~~
14 ~~after January 1, 2006]~~; or

15 (C) AFS ~~[LP-Gas Operations]~~ has not inspected the transport or cylinder delivery
16 unit at least once every four years after the initial registration ~~[within a four-year cycle thereafter]~~.

17 (6) If an LPG Form 4 decal on a unit currently registered with AFS ~~[LP-Gas Operations]~~
18 is destroyed, lost, or damaged, the operator of that vehicle shall obtain a replacement decal by filing LPG
19 Form 18B and a \$50 replacement fee with AFS ~~[LP-Gas Operations]~~.

20
21 §9.203.School Bus, Public Transportation, Mass Transit, and Special Transit Vehicle Installations and
22 Inspections.

23 (a) After the manufacture of or the conversion to an LP-gas system on any vehicle to be used in
24 Texas as a school bus, mass transit, public transportation, or special transit vehicle, the manufacturer,
25 licensee, or ultimate consumer making the installation or conversion shall notify AFS ~~[LP-Gas~~
26 ~~Operations]~~, in writing on LPG Form 503 that the applicable LP-gas powered vehicles are ready for a
27 complete inspection to determine compliance with the rules in this chapter ~~[LP-Gas Safety Rules]~~.

28 (b) AFS shall conduct the inspection within a reasonable time to ensure the vehicles are operating
29 in compliance with the rules in this chapter.

30 (1) If AFS ~~[LP-Gas Operations]~~ initial complete inspection finds the vehicle in
31 compliance with the rules in this chapter ~~[LP-Gas Safety Rules]~~ and the statutes, the vehicle may be
32 placed into LP-gas service. For fleet installations of identical design, an initial inspection shall be
33 conducted prior to the operation of the first vehicle, and subsequent vehicles of the same design may be

1 placed into service without prior inspections. [~~Inspections shall be conducted within a reasonable time~~
2 ~~frame to ensure the vehicles are operating in compliance with the LP-Gas Safety Rules.~~]

3 (2) If violations exist at the time of the initial complete inspection, the vehicle shall not
4 be placed into LP-gas service and the manufacturer, licensee, or ultimate consumer making the
5 installation or conversion shall correct the violations. The manufacturer, licensee, or ultimate consumer
6 shall file with AFS documentation demonstrating compliance with the rules in this chapter, or AFS shall
7 conduct another complete inspection before the vehicle may be placed into LP-gas service.

8 (3) For public transportation vehicles only, [~~either manufactured to use or converted to~~
9 ~~LP-gas,~~] if AFS [~~LP-Gas Operations~~] does not conduct the initial inspection of such vehicle within 30
10 business days of receipt of LPG Form 503, the vehicle may be operated in LP-gas service if it complies
11 with the rules in this chapter. [~~LP-Gas Safety Rules. The manufacturer, licensee, or ultimate consumer~~
12 ~~shall file with LP-Gas Operations documentation demonstrating compliance with the LP-Gas Safety~~
13 ~~Rules, or LP-Gas Operations shall conduct another complete inspection before the vehicle may be placed~~
14 ~~into LP-gas service.~~]

15 (c) The manufacturer, licensee, or ultimate consumer making the installation or conversion shall
16 be responsible for compliance with the rules in this chapter [~~LP-Gas Safety Rules~~], statutes, and any other
17 local, state, or federal requirements.

18 (d) If the requested AFS [~~LP-Gas Operations~~] inspection identifies violations requiring
19 modifications by the manufacturer, licensee, or ultimate consumer, AFS [~~LP-Gas Operations~~] shall
20 consider the assessment of an inspection fee to cover the costs associated with any additional inspection,
21 including mileage and per diem rates set by the legislature.

22
23 §9.204. Maintenance of Vehicles.

24 (a) All LP-gas vehicles and vehicle containers, valves, dispensers, accessories, piping, transfer
25 equipment, gas container, gas utilization equipment, and appliances shall be maintained in safe working
26 order and in accordance with the manufacturer's instructions and the rules in this chapter [~~LP-Gas Safety~~
27 ~~Rules~~].

28 (b) If any of the LP-gas vehicles and vehicle containers, valves, dispensers, accessories, piping,
29 transfer equipment, gas containers, gas utilization equipment, or appliances is not in safe working order,
30 AFS [~~LP-Gas Operations~~] may require that the vehicle be immediately removed from LP-gas service and
31 not be operated until the necessary repairs have been made.

32
33 §9.206. Vehicle Identification Labels.

1 LP-gas shall not be introduced into any vehicle powered by LP-gas and designed for regular use
2 on public roadways unless the vehicle is properly identified by a weather-resistant diamond-shaped label
3 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
4 (relating to Sections in NFPA 58 Not Adopted by Reference, and Adopted With Changes or Additional
5 Requirements).

6
7 §9.208. Testing Requirements.

8 Each transport container unit required to be registered with AFS [~~LP-Gas Operations~~] shall be
9 tested in accordance with 49 CFR 180.407, relating to requirements for test and inspection of
10 specification cargo tanks. The tests shall be conducted by any individual authorized by the United States
11 Department of Transportation through a DOT "CT" number to conduct such tests. This section shall not
12 apply to the initial transfer of unregistered units that are tested and transferred from another state. If the
13 test results show any unsafe condition, or if the transport unit does not comply with 49 CFR Parts 100 -
14 185, the transport container unit shall be immediately removed from LP-gas service and shall not be
15 returned to LP-gas service until all necessary repairs have been made and AFS [~~LP-Gas Operations~~]
16 authorizes in writing its return to service.

17
18 §9.211. Markings.

19 In addition to NFPA 58 §9.4.6.2, each LP-gas transport and container delivery unit in LP-gas
20 service shall be marked on each side and the rear with the name of the licensee or the ultimate consumer
21 operating the unit. Such lettering shall be legible and at least two inches in height and in sharp color
22 contrast to the background. AFS [~~LP-Gas Operations~~] shall determine whether the name marked on the
23 unit is sufficient to properly identify the licensee or ultimate consumer operating the unit.

24
25 §9.212. Manifests.

26 (a) All manifests or bills of lading shall indicate the amount and type of odorant per gross gallons,
27 the vapor pressure of the product at 100 degrees [~~degree~~] Fahrenheit, the net gallons, the loading
28 temperature, the specific gravity at 60 degrees Fahrenheit, the type of product, and the United Nations
29 number with verification by the loading entity and loader. A copy of the manifest or bill of lading shall be
30 given to the entity receiving the shipment.

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

32
33 SUBCHAPTER D. ADOPTION BY REFERENCE OF NFPA 54 (NATIONAL FUEL GAS CODE)

34 §9.301. Adoption by Reference of NFPA 54.

1 (a) Effective September 1, 2020, except ~~[Except]~~ as modified in the remaining sections of this
2 subchapter, the Commission adopts by specific reference the provisions established by the National Fire
3 Protection Association in its 2018 ~~[2006]~~ edition of the *National Fuel Gas Code*, commonly referred to as
4 NFPA 54 or Pamphlet 54. Nothing in this section or subchapter shall prevent the Commission, after
5 notice, from adopting additional requirements, whether more or less stringent, for individual situations to
6 protect the health, safety, and welfare of the general public. Any documents or parts of documents
7 incorporated by reference into these rules shall be a part of these rules as if set out in full.

8 (b) Effective September 1, 2020, the ~~[The]~~ Commission also adopts by reference all other NFPA
9 publications or portions of those publications referenced in NFPA 54 which apply to LP-gas activities
10 only. The adopted pamphlets referenced in NFPA 54 are:

11 (1) NFPA 30A, *Code for Motor Fuel Dispenser Facilities and Repair Garages*, 2018
12 ~~[2003]~~ edition;

13 (2) NFPA 37, *Standard for the Installation and Use of Stationary Combustion Engines*
14 *and Gas Turbines*, 2018 ~~[2002]~~ edition;

15 (3) NFPA 51, *Standard for the Design and Installation of Oxygen-Fuel Gas Systems for*
16 *Welding, Cutting, and Allied Processes*, 2018 ~~[2002]~~ edition;

17 (4) NFPA 52, *Vehicular Fuel Systems Code*, 2016 ~~[2006]~~ edition;

18 (5) NFPA 58, *Liquefied Petroleum Gas Code*, 2017 ~~[2004]~~ edition, as amended in
19 Subchapter E of this chapter (relating to Adoption by Reference of NFPA 58 (LP-Gas Code));

20 (6) NFPA 70, *National Electrical Code*, 2017 ~~[2005]~~ edition;

21 (7) NFPA 82, *Standard on Incinerators and Waste, and Linen Handling Systems and*
22 *Equipment*, 2014 ~~[2004]~~ edition;

23 (8) NFPA 88A, *Standard for Parking Structures*, 2015 ~~[2002]~~ edition;

24 (9) NFPA 90A, *Standard for the Installation of Air Conditioning and Ventilating*
25 *Systems*, 2018 ~~[2002]~~ edition;

26 (10) NFPA 90B, *Standard for the Installation of Warm Air Heating and Air Conditioning*
27 *Systems*, 2018 ~~[2006]~~ edition;

28 (11) NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial*
29 *Cooking Operations*, 2017 ~~[2004]~~ edition;

30 (12) NFPA 211, *Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning*
31 *Appliances*, 2016 ~~[2003]~~ edition;

32 (13) NFPA 409, *Standard on Aircraft Hangars*, 2016 ~~[2004]~~ edition;

33 (14) NFPA 780, *Standard for the Installation of Lightning Protection Systems*, 2017
34 edition;

1 (15) [(14)] NFPA 853, *Standard for the Installation of Station Fuel Cell Power Systems*,
2 2015 [2003] edition; and

3 (16) [(15)] NFPA 1192, *Standard on Recreational Vehicles*, 2018 [2005] edition.

4
5 §9.302. Clarification of Certain Terms Used in NFPA 54.

6 (a) (No change.)

7 (b) Qualified agency. The term "qualified agency" as defined in NFPA 54, §3.3.81 [§3.3.83],
8 shall include a person (as "person" is defined in §9.2 of this title (relating to Definitions)) who holds a
9 current license issued by the Commission, or a person performing certain LP-gas activities on his own
10 premises, as allowed in §9.134 of this title (relating to Connecting Container to Piping).

11 (c) (No change.)

12
13 §9.303. Exclusion of NFPA 54, §10.28 [§10.29].

14 The Commission does not adopt NFPA 54, §10.28 [§10.29], which refers to NFPA 52, Vehicular
15 Fuel Systems Code. Persons engaging in CNG activities shall comply with the Commission's adopted
16 rules in [at] Chapter 13 of this title (relating to Regulations for Compressed Natural Gas (CNG)).

17
18 §9.304. Unvented Appliances.

19 An individual who services and repairs an LP-gas appliance not required by the manufacturer to
20 be vented to the atmosphere is exempt from the requirement to obtain a Category D license as specified in
21 §9.6 of this title (relating to License Categories, Container Manufacturer Registration, and Fees). An
22 individual who installs these unvented appliances to LP-gas systems by means of LP-gas appliance
23 connectors is also exempt from Category D licensing.

24
25 §9.306. Room Heaters in Public Buildings.

26 In addition to applicable requirements in NFPA 54, §10.22.3 [Chapter 10], Installation of Specific
27 Appliances [Equipment], room heaters in schools, day care centers, foster homes, hotels or other similar
28 buildings or rooms used for temporary lodging shall be vented and equipped with a safety shut-off device,
29 except that room heaters with 40,000 Btu or less input and infrared heaters are not required to be vented,
30 but shall have a safety shutoff device and an oxygen depletion system (ODS).

31
32 §9.307. Identification of Converted Appliances.

33 (a) In addition to the requirements of NFPA 54, §9.1.3, and NFPA 58, §5.23 [§5.20], upon
34 completion of the conversion and testing of LP-gas appliances, the licensee, registrant, or appliance

1 manufacturer making the conversion shall attach to each such appliance a decal or tag of metal or other
2 permanent material indicating that the appliance is converted for use with LP-gas.

3 (b) (No change.)
4

5 §9.308. Installation [~~Identification~~] of Piping [~~Installation~~].

6 (a) In addition to the requirements of NFPA 54, Chapter 7, Gas Piping Installation, LP-gas piping
7 shall be installed, altered, repaired, pressure tested, and leakage tested only by persons properly [~~licensed~~
8 ~~or~~] certified by the Commission pursuant to §9.10 and §9.13 of this title (relating to Rules Examination,
9 and General Installers and Repairman Exemption, respectively).

10 (b) Licensees and registrants shall document and retain such documentation of all pressure and
11 leakage tests pursuant to §9.4 of this title (relating to Records) [~~and Enforcement~~].

12 (c) When connecting to or supplying a new piping system with corrugated stainless steel tubing
13 (CSST), the licensee or registrant shall verify the system is bonded.

14 (d) In addition to NFPA 58 §5.11.5, licensees and registrants shall retain written proof regarding
15 any current certifications required by the manufacturer for installation and repair methods for CSST,
16 polyethylene, and polyamide pipe and tubing, including heat-fusion.
17

18 §9.311. Special Exceptions for Agricultural and Industrial Structures Regarding Appliance Connectors and
19 Piping Support.

20 (a) In addition to the requirements of NFPA 54, §9.6.2 and NFPA 58 §5.11.6.5 [~~§5.9.6.5~~]
21 regarding gas hose connectors, agricultural structures, such as greenhouses or broiler houses, or industrial
22 structures not inhabited by humans may use a gas hose connector [~~have appliance connectors~~] more than
23 six feet in length as an appliance connector provided that:

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

25 (2) the hose shall comply with NFPA 58, §§5.11.6.1 through 5.11.6.4 [~~§§5.9.6.1 through~~
26 ~~5.9.6.4~~];

27 (3) - (4) (No change.)

28 (b) (No change.)

29 (c) Items listed in NFPA 54, §1.1.1.2(2) must comply with the requirements of NFPA 58 as
30 adopted in Subchapter E of this chapter (relating to Adoption by Reference of NFPA 58 (LP-Gas Code)).

31 [~~(c) In addition to the requirements in NFPA 54, §7.2.6, the support spacing requirement for 3/4~~
32 ~~to one inch pipe shall not apply to agricultural structures not inhabited by humans, such as greenhouses~~
33 ~~and broiler houses, provided that:]~~

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

1 ~~[(2) pipe joints and fittings are supported by the trusses.]~~

2
3 §9.313. Sections in NFPA 54 Adopted with Additional Requirements or Not Adopted.

4 Table 1 of this section lists certain NFPA 54 sections which the Commission adopts with
5 additional requirements, changes, or does not adopt in order to address the Commission's rules in this
6 chapter.

7 Figure: 16 TAC §9.313

8
9 §9.312. Certification Requirements for Joining Methods. **REPEAL**

10
11 SUBCHAPTER E. ADOPTION BY REFERENCE OF NFPA 58 (LP-GAS CODE)

12 §9.401. Adoption by Reference of NFPA 58.

13 (a) Effective September 1, 2020, except ~~[Except]~~ as modified in this subchapter, the Commission
14 adopts by specific reference the provisions established by the National Fire Protection Association
15 (NFPA) in its 2017 ~~[2008]~~ edition of the *Liquefied Petroleum Gas Code* ~~[(formerly titled *Standard for the*~~
16 ~~*Storage and Handling of Liquefied Petroleum Gases*)]~~, commonly referred to as NFPA 58 or Pamphlet
17 58~~[, effective February 1, 2008]~~. Nothing in this section or subchapter shall prevent the Commission, after
18 notice, from adopting additional requirements, whether more or less stringent, for individual situations to
19 protect the health, safety and welfare of the general public. Any documents or parts of documents
20 incorporated by reference into these rules shall be a part of these rules as if set out in full.

21 (b) Effective September 1, 2020, the ~~[The]~~ Commission also adopts by reference all other NFPA
22 publications or portions of those publications referenced in NFPA 58, §2.1, which apply to LP-gas
23 activities only. The adopted pamphlets referenced in NFPA 58 are:

24 (1) NFPA 10, *Standard for Portable Fire Extinguishers*, 2013 ~~[2007]~~ edition;

25 (2) NFPA 13, *Standard for the Installation of Sprinkler Systems*, 2016 ~~[2007]~~ edition;

26 (3) NFPA 15, *Standard for Water Spray Fixed Systems for Fire Protection*, 2017 ~~[2007]~~
27 edition;

28 (4) NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based*
29 *Fire Protection Systems*, 2017 ~~[2005]~~ edition;

30 (5) NFPA 30, *Flammable and Combustible Liquids Code*, 2015 ~~[2008]~~ edition;

31 (6) NFPA 30A, *Code for Motor Fuel Dispensing Facilities and Repair Garages*, 2015
32 ~~[2008]~~ edition;

33 (7) NFPA 51B, *Standard for Fire Prevention in Use of Cutting and Welding Processes*,
34 2014 ~~[2003]~~ edition;

1 (8) NFPA 54, *National Fuel Gas Code*, 2018 edition, as amended in Subchapter D of this
2 chapter (relating to Adoption by Reference of NFPA 54 (National Fuel Gas Code));

3 (9) [(8)] NFPA 55, *Standard for the Storage, Use, and Handling of Compressed Gases*
4 *and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks*, 2016 [2005] edition;

5 (10) [(9)] NFPA 59, *Utility LP-Gas Plant Code*, 2015 [2004] edition;

6 (11) [(10)] NFPA 70, *National Electrical Code*, 2017 [2008] edition;

7 (12) [(11)] NFPA 99, *Standard for Health Care Facilities*, 2015 [2005] edition;

8 (13) [(12)] NFPA 101, *Life Safety Code*, 2015 [2006] edition;

9 (14) [(13)] NFPA 160, *Standard for the Use of Flame Effects Before an Audience*, 2016
10 [2006] edition;

11 (15) [(14)] NFPA 220, *Standard on Types of Building Construction*, 2015 [2006] edition;

12 ~~{(15) NFPA 251, *Standard Methods of Tests of Fire Resistance of Building Construction*~~
13 ~~*and Materials*, 2006 edition;}~~

14 (16) NFPA 1192, *Standard on Recreational Vehicles*, 2015 [2005] edition.

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1 §9.403. Sections in NFPA 58 Not Adopted by Reference, and Adopted with Changes or Additional
2 Requirements.

3 (a) Table 1 of this section lists certain NFPA 58 sections which the Commission does not adopt
4 because the Commission's corresponding rules are more pertinent to LP-gas activities in Texas, or which
5 the Commission adopts with changed language or additional requirements in order to address the
6 Commission's existing rules.

7 Figure: 16 TAC §9.403

8 (b) (No change.)

9 This agency hereby certifies that the rules as adopted have been reviewed by legal counsel and
10 found to be a valid exercise of the agency's legal authority.

11 Issued in Austin, Texas, on December 17, 2019.

12 Filed with the Office of the Secretary of State on December 17, 2019.



Wayne Christian, Chairman

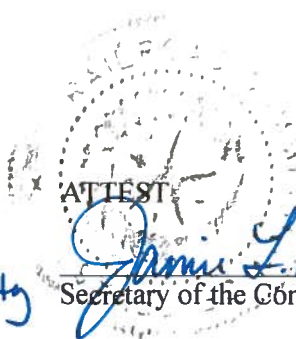



Christi Craddick, Commissioner




Ryan Sitton, Commissioner

ATTEST



Deputy

Secretary of the Commission


Haley Cochran
Rules Attorney
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