

(e) In addition to compliance with the requirements of this chapter, LPG systems at locations identified as fill plants shall be subject to inspection by the local fire official, in ac-

cordance with section F-3609.0 of the Fire Prevention Code, N.J.A.C. 5:70-3.

(f) LP-Gas facilities including producers, bulk plants and industrial plants of 10,000 gallons water capacity or more, gas utility plants, marine or pipeline terminals or tank farms shall comply with and shall be inspected in accordance with the quality control program outlined in N.J.A.C. 5:18-9.

Recodified from N.J.A.C. 12:200-1.7 by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Prior N.J.A.C. 12:200-1.2 was "Purpose," which was recodified to N.J.A.C. 12:200-1.1.

New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Former N.J.A.C. 5:18-1.2, Existing installations, recodified to N.J.A.C. 5:18-1.1(c).

### 5:18-1.3 Compliance

(a) All liquefied petroleum gas systems shall be installed and maintained in a safe operating condition in accordance with these rules.

(b) Zoning considerations shall be the responsibility of the municipality in which the system is located.

(c) All buildings or structures housing liquefied petroleum systems and foundations for containers shall be constructed in accordance with the applicable provisions of the Uniform Construction Code, N.J.A.C. 5:23.

(d) Only a qualified person shall sell, fill, or refill liquefied petroleum gas at a dispensing or distributing point.

(e) Any person performing installation, maintenance, repair, removal, adjustment or other services to propane containers or appliances, including, but not limited to, ranges, water heaters, heaters, furnaces, and other propane fueled systems for residential and commercial applications, shall obtain a Propane Service Certification issued by the Department. Persons performing installation or service work on containers must be certified in accordance with (e)1 below, persons performing installation or service work on appliances must be certified in accordance with (e)2 below.

1. A person shall be eligible for a "Propane Service Certification – Container Service and Installation" provided he or she successfully completes book 1 "Basic Principles and Practices" and part 4.2 "Preparing and Installing Vapor Distribution System Components" of the Certified Employee Training Program (CETP) administered by the National Propane Gas Association. Should the CETP books or parts listed in this section be renumbered or renamed, this requirement shall be understood to establish a requirement for the renumbered or renamed part that has the equivalent content.

2. A person shall be eligible for a "Propane Service Certification – Appliance Installation and Service" provided he or she successfully completes book 1 "Basic Principles and Practices," part 6.0 "Appliance Installation" and part 7.0 "Appliance Service" of the Certified Em-

ployee Training Program (CETP) administered by the National Propane Gas Association. Should the CETP books or parts listed in this section be renumbered or renamed, this requirement shall be understood to establish a requirement for the renumbered or renamed part that has the equivalent content.

3. An application for a Propane Service Certification shall consist of proof of completion of the required CETP training program and a \$50.00 application fee.

i. Propane gas marketers licensed pursuant to N.J.A.C. 5:18-10.1 with at least one employee who has the required CETP training shall not be required to obtain a Propane Service Certification.

4. Single-family homeowners performing work on appliances or equipment that they own shall not be required to obtain a Propane Service Certification but shall be responsible for obtaining any necessary permits pursuant to the Uniform Construction Code, N.J.A.C. 5:23.

(f) No propane service work as described in this section shall be undertaken without the appropriate Propane Service Certification after October 5, 2010.

(g) The Department may revoke or suspend a Propane Service Certification or may assess fines or penalties in cases where a certified individual or licensee violates the provisions of the Liquefied Petroleum Gas Act and/or rules.

1. A certified individual or licensee shall be entitled to an administrative hearing to contest any order imposing sanctions, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(h) No person shall install, remove, connect, disconnect, fill or refill any liquefied petroleum gas container without permission of the owner of the container.

1. Exception: Containers at one or two-family residential properties may be disconnected and moved provided that the qualified person removing the container secures the fill line, gauge openings, fuel lines and pump connections against tampering and leaves the container in a safe and secure location.

(i) The owner of an LP-Gas container found to be in a hazardous condition shall remove the container from the site as soon as possible or necessary, but in no case later than five working days of written notification by the Bureau.

(j) The Commissioner may order the owner or operator of a system to meet additional requirements:

1. Where unusual conditions exist; and
2. When it is necessary for the protection of the health, safety or welfare of persons.

(k) LP-Gas systems having a product vapor pressure greater than that allowed in the referenced standards for commercial propane, with the product measured at 100 degrees Fahrenheit, shall be subject to the approval of the Commissioner.

(l) When liquefied petroleum gas equipment is to be abandoned or temporarily placed out of service, the user/owner shall comply with the provisions of Section F-3608.0, Abandonment of Equipment, of the Fire Prevention Code, N.J.A.C. 5:70-3.

(m) Any person seeking a waiver or modification of any requirement set forth in this chapter in a specific situation where strict adherence to the requirement poses a hardship, or where technological advances allow an alternative that provides equivalent protection, may submit a request for such waiver or modification to the Bureau Chief. The application shall include a statement that explains why strict adherence to the rules would be problematic, or why an alternative would be appropriate, and a statement that documents that the alternative(s) requested would be consistent with the intent of the Act and of this chapter and would not result in any increased health or safety risk. The Bureau Chief may grant any such waiver or modification only upon a finding that doing so would not result in any increased health or safety risk and would be consistent with the intent of the Act and of this chapter.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Recodified from N.J.A.C. 12:200-1.8. Prior N.J.A.C. 12:200-1.3 was "Scope," which was recodified as N.J.A.C. 12:200-1.1.

Deleted old (j) and (k) regarding specific containers and distance requirements, recodifying old (l) as new (j) and adding new (k). In (e), deleted reference to systems utilizing containers of over 30 pounds product capacity and added "at a dispensing or distributing point."

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote the section.

Amended by R.2003 d.455, effective December 1, 2003.

See: 35 N.J.R. 3474(a), 35 N.J.R. 5371(b).

Added (j).

Amended by R.2008 d.288, effective October 6, 2008.

See: 40 N.J.R. 3341(a), 40 N.J.R. 5576(a).

Added new (e) through (g); and recodified former (e) through (j) as (h) through (m).

Amended by R.2009 d.319, effective October 19, 2009.

See: 41 N.J.R. 2755(a), 41 N.J.R. 3898(b).

In (f), substituted "2010" for "2009".

#### 5:18-1.4 Registration

(a) All existing LPG systems of greater than 2,000 gallons water capacity vapor delivery service, all liquid withdrawal systems and all fill plants shall be registered by the owner with the Bureau.

1. The submission of plans pursuant to N.J.A.C. 5:18-6.1 shall be accepted as satisfying the registration requirement.

(b) When there is a change in the ownership of an existing LPG system, the new owner shall register with the Bureau within ten business days of the change in ownership.

(c) All LP-Gas facilities, including producers, bulk plants and industrial plants of 10,000 gallons water capacity or more, gas utility plants, marine or pipeline terminals or tank farms, shall be registered with the Bureau in accordance with N.J.A.C. 5:18-9.1.

(d) Each registration shall indicate the name and address of the New Jersey office or New Jersey residence of the LPG system's owner or the owner's representative; the owner or the owner's representative must reside or have an office in the State of New Jersey to accept service of process.

(e) It shall be the responsibility of the owner to notify the Department of any change in the identity, mailing address, office or residence address or phone number of the owner or representative. Any change shall be reported to the Department in writing within 30 days of the change.

New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Former N.J.A.C. 5:18-1.4, Reporting emergency situations, recodified to N.J.A.C. 5:18-1.7.

Amended by R.2006 d.95, effective March 6, 2006.

See: 37 N.J.R. 4104(a), 38 N.J.R. 1316(a).

Added (d) and (e).

#### 5:18-1.5 Inspection of LPG systems by the Bureau

(a) All LPG systems of greater than 2,000 gallons water capacity vapor delivery service, all liquid withdrawal service systems and all fill plants shall be inspected annually by the Bureau, with the exception of LPG systems meeting the requirements of N.J.A.C. 5:18-9, which shall be subject to a triennial audit, and those subject to local inspection, as set forth in N.J.A.C. 5:18-1.2(c).

(b) Upon successful completion of an initial inspection by the Bureau, a site-specific certificate of operation shall be issued.

(c) The certificate of operation shall indicate that the LPG system is in compliance with the applicable requirements of this chapter and shall be posted at a conspicuous location where representatives of the Bureau and members of the public may inspect it.

(d) Failure to remove any violations found as a result of an inspection made by the Bureau shall result in issuance of a written notice to abate the violations. Correction of violations shall be done in accordance with N.J.A.C. 5:18-7.3.

Recodified from N.J.A.C. 12:200-1.10 by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Prior N.J.A.C. 12:200-1.5 was "Repeal of prior chapters."

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Repeal and New Rule, R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Section was "Reporting of fires, explosions or accidents".

“N.J.S.A.” means the New Jersey Statutes Annotated.

“Person” means an individual, firm, association or corporation.

“Portable container” means a USDOT or ASME container of not more than 1,000 pounds water capacity.

“Producer” means the owner of LP-Gas at the time it is recovered at a gas processing plant or refinery.

“Professional engineer” means a person licensed to practice professional engineering in New Jersey by the New Jersey Board of Professional Engineers and Land Surveyors.

“Property line” means the line of adjoining property or the near side of any public way.

“Public way” means a government owned thoroughfare, such as a street or highway, designed for public use by lawful procedure.

“Qualified person” means a person selected by an employer and trained to perform a specific task or duty involving LP-Gas, who has the degree of competence necessary to accomplish the work in a safe manner.

“Referenced standard” means N.J.A.C. 5:18-3.1(a), or 5:18-4.1(a), or 5:18-5.1(a) as applicable.

“Serious injury” means an injury which required treatment by a doctor, such as a fracture, or a condition requiring admittance to a hospital for at least 24 hours.

“Tank” means a container of more than 1,000 pounds water capacity used for the storage or utilization of liquefied petroleum gas.

“USDOT” means the United States Department of Transportation.

“Wholesaler” means any person who purchases LP-Gas and may sell it to retail LP-Gas dispensers. “Wholesaler” may include, but is not limited to, producers and marketers.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Deleted definitions for “API-ASME,” “BOCA,” and “shall,” and added definitions: “API,” “Dispensing device,” “Distributing plant,” “Distributing point,” “Important building,” “NFPA.” Added “portable tanks and cargo tanks” to definition of “container.”

Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a) 33 N.J.R. 1399(d).

Deleted “Important building”.

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote the section.

Amended by R.2007 d.174, effective June 4, 2007.

See: 39 N.J.R. 279(a), 39 N.J.R. 2229(b).

In definition “Hazardous material”, substituted “30-2003” for “30-1993”.

## SUBCHAPTER 3. NFPA 58 SYSTEMS

### 5:18-3.1 Standards adopted by reference

(a) The Liquefied Petroleum Gas Code, “NFPA 58-2008,” is hereby adopted by reference with the following modifications:

1. The following amendments are made to Chapter 1 of NFPA 58 entitled “Administration”:

- i. Section 1.3.1 is deleted.
- ii. Section 1.3.2 is deleted.
- iii. Section 1.4.2 is deleted and the requirements of N.J.A.C. 5:18-1.1(c) shall be substituted in lieu thereof.
- iv. Section 1.4.3 is deleted and the provisions of N.J.A.C. 5:18-1.1(c) shall be substituted in lieu thereof.

2. The following amendments are made to Chapter 3 of NFPA 58 entitled “Definitions”:

- i. The terms and definition of “Authority Having Jurisdiction” is deleted. Substitute in lieu thereof, “The Bureau of Code Services is the authority having jurisdiction unless otherwise noted.”

3. The following amendments are made to Chapter 4 of NFPA 58 entitled “General requirements”:

- i. Section 4.3.1 is deleted.
- ii. Section 4.3.2 is deleted.
- iii. Section 4.3.3 is deleted.
- iv. Section 4.4 is deleted.

4. The following amendments are made to Chapter 5 of NFPA 58 entitled “LP-Gas Equipment and Appliances”:

- i. Section 5.2.2.1 is deleted.
- ii. Section 5.2.3 is amended to add the phrase “After January 1, 2011,” before the words “DOT cylinders in stationary service” on the first line.
- iii. Section 5.7.4.2(C) is amended to replace the date “July 1, 2003” with “July 1, 2007.”
- iv. Section 5.7.4.2(D) is amended to replace the date “July 1, 2011” with “July 1, 2015.”
- v. Section 5.7.4.2(G) is amended to replace the date “July 1, 2003” with “July 1, 2007.”
- vi. Section 5.7.4.2(H) is amended to replace the date “July 1, 2011” with “July 1, 2015.”
- vii. Section 5.20.6 is deleted.
- viii. Section 5.20.7 is deleted.

5. The following amendments are made to Chapter 6 of NFPA 58 entitled "Installation of LP-Gas Systems":

i. Section 6.3.1 is amended to delete the words "that can be built upon" on lines 5 and 6.

ii. Section 6.3.3 is amended to delete the words "that can be built upon" on line 4.

iii. Section 6.3.4.1 is deleted and the following language is substituted "Distances for all underground containers and mounded ASME containers shall be measured from the pressure relief valve and the filling connection."

iv. Section 6.3.4.2 is amended to delete the words "that can be built upon" on line 3.

v. Section 6.5.1.3 is deleted.

vi. Section 6.4.5.12 is amended to delete the words "600 volts, nominal" and replace them with the words "240 volts nominal."

vii. Section 6.6.6.1(C) is amended to add the phrase "when located within 10 feet of a street, parking area or other location where vehicles are likely to operate" at the end of the sentence.

viii. Section 6.6.7 is deleted.

ix. Section 6.9.1.1(4) is amended to delete the words "LP-Gas vapor at pressures exceeding 20 psig (138 KPag) or";

x. Section 6.9.1.2 is deleted;

xi. Section 6.9.4.6 is amended to replace the term "(minimum AWG 14)" with the term "(minimum AWG 18)."

xii. Section 6.11.1 is amended to replace the date "July 1, 2003" with "July 1, 2007."

xiii. Section 6.19.1.1(1) is deleted and the following language is substituted, "The storage of LP-Gas cylinders on exterior balconies of buildings or inside of buildings shall be in accordance with the Uniform Construction Code (N.J.A.C. 5:23) and the Uniform Fire Code. (N.J.A.C. 5:70)"

xiv. Section 6.19.1.2(C) is deleted.

xv. Section 6.19.2 is deleted.

xvi. Section 6.19.3 is deleted and the following language is added: "The installation of piping and appliances within buildings shall conform to the Uniform Construction Code (N.J.A.C. 5:23). The installation of LP-Gas tanks on roofs of buildings except while under construction shall be prohibited. The installation of propane storage containers, piping and appliances on exterior balconies shall be in accordance with the Uniform Construction Code and the Uniform Fire Code (N.J.A.C. 5:70) as applicable."

xvii. Section 6.19.4.2 is deleted and the following language is substituted "The storage and use of LP-Gas in buildings that are under construction and partially occupied shall be approved by the authority having jurisdiction under the Uniform Fire Code (N.J.A.C. 5:70)."

xviii. Section 6.19.11 is deleted.

xix. Table 6.21.3.6 is amended to delete the words "that can be built" on line 6 under the heading "Exposure."

xx. Section 6.23 is deleted.

xxi. Section 6.24.3.8 is amended to delete the words "remote closure and" in item (1) and to delete the words "fitted for remote remote closure and" in item (2).

xxii. Section 6.24.3.9 is deleted.

xxiii. Section 6.24.3.10 is deleted.

6. The following amendments are made to Chapter 7 of NFPA 58 entitled "LP-Gas Liquid Transfer":

i. Section 7.2.2.1 is amended to delete the words "Section 4.4" and substitute "N.J.A.C. 5:18-1.3(d)."

ii. Section 7.2.3.8 is deleted.

iii. Section 7.2.3.9 is deleted.

7. The following amendments are made to Chapter 8 of NFPA 58 entitled "Storage of Cylinders Awaiting Use, Resale, or Exchange":

i. Section 8.3 is deleted and the following language is substituted, "The storage of LP-Gas in buildings shall be in accordance with the Uniform Fire Code (N.J.A.C. 5:70) and Uniform Construction Code (N.J.A.C. 5:23) as appropriate."

ii. Section 8.4 is deleted and the following language is substituted: "The storage of LP Gas outside of buildings shall be in accordance with the Uniform Fire Code (N.J.A.C. 5:70)."

8. Chapter 9 of NFPA 58, with the exception of 9.7 on the parking and garaging of vehicles used to carry LP-Gas, entitled "Vehicular Transportation of LP-Gas," is deleted.

9. Chapter 11 of NFPA 58 entitled "Engine Fuel Systems" is deleted.

10. Chapter 14 is deleted.

(b) Where any conflict occurs between the standards prescribed in (a) above and these rules, these rules shall prevail.

Amended by R.1990 d.436, effective September 4, 1990.  
See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

In (d): deleted (d)1-3 referring to BOCA codes. Added new (e).  
Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a), 33 N.J.R. 1399(d).

Substituted "1998" for "1995" throughout; in (a)1, inserted "Sub-section 3-2.5," preceding "Chapter 6".

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote the section.

Amended by R.2005 d.425, effective December 5, 2005.

See: 37 N.J.R. 2744(a), 37 N.J.R. 4531(b).

Rewrote (a).

Administrative correction.

See: 37 N.J.R. 4910(b).

Amended by R.2008 d.289, effective October 6, 2008.

See: 40 N.J.R. 3342(a), 40 N.J.R. 5577(a).

In the introductory paragraph of (a), substituted "2008" for "2004"; deleted former (a)2; recodified former (a)3 through (a)6 as (a)2 through (a)5; added (a)3iii and (a)3iv; in (a)4ii through (a)4viii, updated the section references; in (a)4ii, substituted "2011" for "2009"; rewrote (a)5; added new (a)6; rewrote (a)7ii; deleted (a)7iii; and added (a)10.

#### Case Notes

Initial Decision adopted, which concluded that the agency demonstrated violations of N.J.A.C. 5:18-3.1 because the driver of the truck did not have sufficient training in emergency procedures and emergency shutoff valves were not in working order, which caused a gas explosion and allowed liquid petroleum to escape into the atmosphere (adopting 2007 N.J. AGEN LEXIS 429 with factual corrections). Dep't of Community Affairs, Bureau of Code Services v. Ferrellgas, LP, OAL Dkt. No. CAF 07598-04, 2007 N.J. AGEN LEXIS 520, Final Decision (July 16, 2007).

#### 5:18-3.2 Container markings

All containers shall be marked in accordance with N.J.A.C. 5:18-1.6.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

In (a): revised text from "125 gallons water" to "100 pounds product" regarding container capacity. Added Federal Register citation. In (b): revised text, adding reference to marking containers.

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Rewrote the section.

#### 5:18-3.3 Container storage

(a) Containers shall be installed outside of buildings, except as provided in N.J.A.C. 5:18-3.1(a), whether of the portable type replaced on a cylinder exchange basis or permanently installed and refilled at the installation.

(b) Containers installed outside of buildings shall be located with respect to property lines other than public ways, buildings, or bulk storage of hazardous materials in accordance with Table 6.3.1 of the Liquefied Petroleum Gas Code, NFPA 58-2008.

1. The term "buildings" as used in this subsection shall not be construed to include the buildings described in paragraph 6.3.5 of the referenced standard.

2. The term "hazardous materials" as used in this subsection shall recognize the specific requirements for the specific hazardous materials described in paragraphs 6.4.5.5, 6.4.5.6 and 6.4.5.8 of the referenced standard.

(c) Containers installed outside of buildings shall be located with regard to the near side of a public way in accordance with the schedule of aboveground containers of Table 6.3.1 of Liquefied Petroleum Gases, NFPA 58-2008, as provided below:

1. For containers of 30,000 gallons water capacity or less a distance of at least 50 percent of said schedule;

2. For containers of over 30,000 gallons water capacity a distance of at least 100 percent of said schedule.

(d) Existing containers, installed prior to the effective date of these rules, need not comply with the distances provided in (b) and (c) above provided:

1. The containers were in conformance with the applicable chapter of the N.J.A.C. in effect at the time of installation; and

2. The containers as so located do not constitute a serious and substantial threat to the health and safety of the public.

(e) Installations of LP-Gas systems with aboveground containers of 90,000 gallons individual or aggregate water capacity or more that present a serious exposure hazard shall be protected by one of the following: distances at least 50 percent greater than the schedule of aboveground containers of Table 6.3.1 of Liquefied Petroleum Gas Code, NFPA 58-2008, water spray protection, fixed monitors, or insulation.

(f) If more than six containers, each of which is of 2,000 gallons water capacity or more, are used at a single site, the containers shall be separated into batteries of not more than six containers with batteries separated from each other by the distances required for the schedule for mounded or underground containers of Table 6.3.1 of Liquefied Petroleum Gas Code, NFPA 58-2008.

(g) When the required distance from a property line to an LP-Gas container cannot be obtained, the commissioner may approve a lesser distance if some other approved means of protection is provided for the system and reasonable protection for the health and safety of the public is maintained.

(h) In case of storage in heavily populated areas or congested areas, or near places of public assembly, the Commissioner may require the owner to submit a risk analysis based on a recognized standard and may impose restrictions on individual tank capacity, total storage, distance to property lines, and other reasonable protective measures.

(i) Where there is a possibility of damage to storage containers from motor vehicles or other heavy objects, protection against such damage shall be provided. This protection shall meet the following minimum requirements:

1. Crash posts are to be a minimum of four inch schedule 40 pipe and painted yellow.

2. Crash posts are to be buried three feet six inches deep, extend three feet above grade, and be filled with concrete.

3. Posts are to be encased below grade in concrete at least 18 inches in diameter and three feet six inches in depth.

4. Posts are to be set at four feet six inches maximum centers.

5. The crash protection shall be installed a minimum of 24 inches from the LP container(s).

(j) In areas where high speed and heavy duty traffic occurs, the following shall be the requirements for motor vehicle protection:

1. Posts are to be minimum of six inches schedule 40 pipe and painted yellow.

2. Posts are to be buried a minimum of 48 inches deep, and extend a minimum of 48 inches above grade, and be filled with concrete.

3. Posts are to be set at four feet maximum centers.

4. Posts are to be encased below grade in concrete of at least 24 inches in diameter and 48 inches in depth.

5. The crash protection shall be installed a minimum of 24 inches from the LP container(s).

(k) Highway barrier installed as per New Jersey Department of Transportation specifications may be substituted for crash posts as described in (i) and (j) above.

(l) The maximum fill levels of storage containers shall be in the same horizontal plane, when the containers are interconnected by liquid piping.

(m) Storage areas having containers exceeding 100 pounds product water capacity shall be posted with adequate "NO SMOKING" and "FLAMMABLE GAS" signs legibly marked. The "FLAMMABLE GAS" sign shall be marked "FLAMMABLE GAS" and the name of the gas to indicate the contents such as "FLAMMABLE GAS-PROPANE" or "FLAMMABLE GAS-BUTANE".

(n) Storage containers shall not be placed under an electric power service transmitting voltage in excess of 240 volts or within six feet of a line projected vertically from any edge of the container.

(o) Cargo tank vehicles and tank cars shall not be used as a permanent storage facility.

1. Cargo tank(s) shall not be filled from another cargo tank.

(p) Aboveground containers exceeding 2,000 gallons individual water capacity shall be oriented so that their longitudinal axes do not point toward other LP-Gas containers within that installation.

(q) Dead trees or dead branches overhanging containers that can fall and dislocate a container from its piping shall be removed.

(r) Containers proposed for mounding or underground installation shall be provided with cathodic protection in addition to a suitable coating for corrosion protection.

1. Cathodic protection will not be required if a professional engineer certifies in writing to the Department that based on his or her soil investigation such protection is unnecessary.

Amended by R.1990 d.436, effective September 4, 1990.

See: 22 N.J.R. 1984(a), 22 N.J.R. 2744(a).

Stylistic revisions throughout text. In (i), added "... substantial bumper guards ... or equivalent" to text. In (k), revised "125 gallons aggregate water" to "100 pounds product" capacity. Added new (p).

Amended by R.1995 d.391, effective July 17, 1995.

See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).

Administrative change.

See: 32 N.J.R. 3394(a).

Amended by R.2001 d.141, effective May 7, 2001.

See: 32 N.J.R. 3917(a), 33 N.J.R. 746(a), 33 N.J.R. 1399(d).

Substituted "1998" for "1995" throughout; in (b), deleted "important" preceding "buildings"; in (c), substituted "3-2.2.2" for "3-1" preceding "of Liquefied Petroleum Gases".

Amended by R.2003 d.200, effective May 19, 2003.

See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

Substituted "Liquefied Petroleum Gas Code" for "Liquefied Petroleum Gases" throughout; in (b), amended paragraph references throughout; in (e), inserted "LP-Gas Systems with" following "Installations of"; in (f), substituted "site" for "installation" following "single"; rewrote (h) and j(4).

Administrative correction.

See: 37 N.J.R. 2486(a).

Amended by R.2005 d.425, effective December 5, 2005.

See: 37 N.J.R. 2744(a), 37 N.J.R. 4531(b).

Substituted "NFPA No. 58-2004" for "NFPA No. 58-1998" throughout; substituted "Table 6.3.1" for "Table 3-2.2.2" throughout; in (b)2, substituted "6.4.5.5, 6.4.5.6 and 6.4.5.8" for "3-2.2.7(e) and (f)."

Amended by R.2008 d.289, effective October 6, 2008.

See: 40 N.J.R. 3342(a), 40 N.J.R. 5577(a).

In the introductory paragraphs of (b) and (c) and in (f), substituted "58-2008" for "No. 58-2004"; in (e), substituted "58-2008" for "58-2004"; and in (l), substituted "maximum fill levels" for "tops".

#### Case Notes

Township could not determine safety of land use for liquid propane gas storage following determination by Commissioner of Labor and Industry. (citing former N.J.A.C. 12:200-5.8). *Scheff v. Tp. of Maple Shade*, 149 N.J.Super. 448, 374 A.2d 43 (App.Div.1977), certification denied 75 N.J. 13, 379 A.2d 244.

#### 5:18-3.4 Distributing points, distribution plants, and industrial plants

(a) This section shall apply to the following:

1. Distributing points of any capacity; or
2. Distributing plants of any capacity; or
3. Industrial plants of 2,000 gallons aggregate water capacity or more.

(b) If loading or unloading is normally done during other than day-light hours, adequate lights shall be provided to illuminate storage containers, control valves and other LP-Gas equipment.

(c) Suitable roadways or means of access for extinguishing equipment, such as wheeled extinguishers or fire department apparatus shall be provided.

an adequate storage capacity for customers or contract(s) with other marketers to provide LP-Gas.

(e) Retention and reissuance of a license shall be contingent upon satisfactory completion of all audits required pursuant to this chapter.

Amended by R.2004 d.199, effective June 7, 2004.

See: 36 N.J.R. 910(a), 36 N.J.R. 2733(a).

In (c), deleted "per occurrence" following "\$5,000,000".

### 5:18-10.2 Application for licensure; fees

(a) An application for licensure shall be submitted on a form provided by the Bureau and shall include the following information:

1. The name of the business;
2. The names, addresses and telephone numbers of the officers, directors, partners or proprietors of the business;
3. The activities having to do with LP-Gas in which the business is engaged in the State of New Jersey;
4. Proof of insurance as required by N.J.A.C. 5:18-10.1(c);
5. The location(s) at which or from which each such activity is conducted and the LP-Gas storage capacity at each such location or information on contracts with other marketers to provide LP-Gas;
6. Emergency contact information in conformance with N.J.A.C. 5:18-1.7;
7. A listing of all persons employed by the business who are in any way engaged in handling LP-Gas, together with the locations at which they work and Certified Employee Training Program (CETP) of the National Propane Gas Association certifications held by them;
8. A statement indicating whether or not the business, or any officer, director, partner or proprietor of the business, has at any time within the previous ten years been the subject of any order or finding of violation by any governmental entity with regard to the business or any other LP-Gas business or has been convicted of any crime or of any offense involving the business or any other LP-Gas business; and
9. A certification that the information set forth in the application is complete and correct.
10. The name and address of the New Jersey office or New Jersey residence of the licensee or the licensee's representative, the licensee or the licensee's representative must reside or have an office in the State of New Jersey to accept service of process.

(b) Each application for a license shall be accompanied by a fee in the amount of \$100.00. Checks shall be made payable to "Treasurer, State of New Jersey."

(c) It shall be the responsibility of the licensee to notify the Department of any change in the identity, mailing address, office or residence address or phone number of the licensee or representative. Any change shall be reported to the Department in writing within 30 days of the change.

Amended by R.2006 d.95, effective March 6, 2006.

See: 37 N.J.R. 4104(a), 38 N.J.R. 1316(a).

Added (a)10 and (c).

### 5:18-10.3 Employee certification

(a) Any employee of a marketer licensed pursuant to N.J.A.C. 5:18-10.1 handling LP-Gas shall obtain Certified Employee Training Program (CETP) of the National Propane Gas Association certification for Book One, "Basic Principles and Practices," within three months of the date of hiring.

1. All employees of a licensed marketer who are responsible for delivering propane shall take and pass part 2.1 of the CETP program, and shall pass part 2.2 if they drive a bulk delivery vehicle, part 2.4 if they drive a cylinder delivery truck or part 2.5 if they are involved in the transportation/relocation of ASME tanks.

2. All employees of a licensed marketer who are responsible for plant operations such as maintaining, purging or reconditioning tanks, shall pass parts 3.1, 3.2, 3.3 and 3.4 of the CETP program and shall pass, as applicable, part 3.5 or 3.6 if the employee is responsible for any aspect of cargo tank product transfers or rail car transfers, respectively.

3. All employees of a licensed marketer who are responsible for the installation, alteration or repair of propane distribution systems shall pass part 4.2 of the CETP program.

4. The appropriate parts of 2, 3 and 4 of the CETP program must be completed within 21 months of the date of hire or by September 6, 2005, whichever is later.

5. The licensed LP-Gas marketer shall maintain documentation from CETP that each employee, responsible for any specific task listed above, has passed the appropriate CETP test(s) and the required practicum(s) for the task(s).

6. Employees who have completed the previous version of Book One, "Basic Principles and Practices," Book Two, "Propane Delivery," Book Three, "Plant Operations," and Book Four, "Distribution System Operations" of the CETP program are deemed to comply with this rule.

7. Should the CETP books or parts listed in this section be renumbered or renamed, this requirement shall be understood to establish a requirement for the renumbered or renamed part that has the equivalent content.

(b) Licensees shall maintain records of employee certification and shall make those records available to the Bureau upon request.

Amended by R.2005 d.174, effective June 6, 2005.  
See: 36 N.J.R. 5282(a), 37 N.J.R. 2012(c).

Rewrote (a).

Amended by R.2008 d.288, effective October 6, 2008.

See: 40 N.J.R. 3341(a), 40 N.J.R. 5576(a).

In (a)2, substituted "CETP" for "CEPT"; and added (a)7.

#### **5:18-10.4 Fill plant and dispensing station operator training**

(a) All fill plant or dispensing station operators shall be trained using the "Dispensing Propane Safely" manual (2000 edition) published by the National Propane Gas Association, incorporated herein by reference, or an equivalent accepted by the Department. An employee shall receive training prior to dispensing LP-Gas. It shall be the responsibility of the business operating the tank, working together with the marketer, to ensure all employees dispensing LP-Gas are trained properly.

(b) Licensees shall maintain records of employee training and shall make those records available to the Bureau upon request.

New Rule, R.2003 d.250, effective July 7, 2003.

See: 35 N.J.R. 1176(a), 35 N.J.R. 2864(a).

Section was Reserved.

#### **5:18-10.5 Suspension and revocation of licenses and certifications and alternative sanctions**

(a) The Bureau may suspend or revoke a license, or may deny renewal or issuance of a license, upon a finding that an applicant or licensee has engaged in acts or omissions harmful to public safety or to the protection of the public. Factors in determining whether a license should be revoked or suspended, or for how long a suspension should be in effect, shall include, but not be limited to, the extent and duration of the hazard to the public, the extent to which willful or reckless behavior was evident, prior history of like or similar violations and the extent to which appropriate corrective action was taken.

(b) As an alternative to revocation or suspension of a license, the Bureau may assess a civil penalty, in accordance with N.J.S.A. 21:1B-5, or may issue a letter of warning, reprimand or censure, if the Bureau determines any such action to be warranted. Any penalty imposed or letter issued shall be part of the licensing file of the business or individual, as the case may be.

(c) Conviction of a crime, or of an offense in connection with the LP-Gas business, shall constitute grounds for suspension or revocation of a license.

(d) Any person to whom the Bureau denies a license, or whose license is suspended or revoked, or who is ordered to pay a civil penalty, shall be entitled to appeal the action of the Bureau in an administrative hearing conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The final decision shall be issued by the Commissioner.

### SUBCHAPTER 11. CUSTOMER INFORMATION

#### **5:18-11.1 Required information**

(a) Effective on July 1, 2009, propane gas marketers shall provide existing and prospective customers with information on the terms and conditions for the sale of propane in accordance with N.J.A.C. 5:18-11.2 through 11.6. When any of the information listed in N.J.A.C. 5:18-11.6 regarding a pricing policy or service policy is changed, the consumer shall be notified by issuing the revised information in writing.

(b) Customers shall be provided with propane gas marketers' company license numbers.

(c) Customers shall be informed that they have the right to contact the Bureau of Code Services in the Department of Community Affairs. Customers may contact the Bureau between the hours of 8:30 a.m. and 4:30 p.m. by telephone at (609) 633-6385. Customers may also e-mail the Bureau at [LPGas@dca.state.nj.us](mailto:LPGas@dca.state.nj.us).

#### **5:18-11.2 Pricing policy**

(a) Per gallon price quote: Propane gas marketers shall provide customers buying propane with a per gallon price quote. The price quote may be provided by telephone or facsimile.

1. Propane gas marketers may provide customers buying filled cylinders with a per cylinder price quote. The price quote may be provided by telephone or facsimile and shall include the following information:

- i. The cost of propane per cylinder; and
- ii. The size of the cylinder.

(b) The per gallon price quote shall include the following information:

1. The minimum delivery amount, if any;
2. The cost of propane based on usage. Customers shall be informed that the cost of propane fluctuates based on the current market value of propane;
3. Whether deliveries are automatic or whether the customer must call for deliveries.
  - i. Customers shall be informed of how often automatic deliveries will be made and whether automatic deliveries will be made on weekends or holidays and the charges that apply;
4. Whether customers are obligated to inform marketers of changes in circumstances that might affect the rate at which the customers use propane;
5. The cost of propane for customer-requested (on demand) deliveries, including information on the surcharge(s) for propane that is below the minimum delivery amount;