

5:18-4.5 Fire protection

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

(b) Approved extinguishers of adequate capacity of the carbon dioxide or dry chemical type shall be provided at strategic locations, such as storage sites, unloading and loading racks, filling or charging locations, pump, compressor and vaporizer locations.

(c) The Commissioner may require reasonable fire protection facilities for LP-Gas installations exceeding 4,000 gallons aggregate water capacity.

SUBCHAPTER 5. API 2510 INSTALLATIONS
5:18-5.1 Standards adopted by reference

(a) API 2510-1995 "Design and Construction of Liquefied Petroleum Gas (LPG) Installations" is hereby adopted by reference for the design and construction of liquefied petroleum gas (LPG) installations at marine and pipeline terminals, refineries, petrochemical plants and tank farms, except that:

1. The phrase "that may be developed" shall be deleted;
2. Only the technical standards relating to public health and safety are adopted by reference. The administrative and reporting procedures of the referenced standard are not adopted and are replaced by the administrative provisions of this chapter; and
3. NFPA 58-1998 may be used as the standard for those areas not specifically addressed in API 2510-1995 provided that the provisions of NFPA 58 do not conflict with the intent of API 2510-1995.

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

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.

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.

5:18-5.2 Container markings

Containers of liquefied petroleum gases at marine and pipeline terminals, refineries, petrochemical plants and tank farms shall be marked in accordance with N.J.A.C. 5:18-1.6.

Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).
Amended N.J.A.C. reference.

5:18-5.3 Container storage

(a) Siting of containers shall conform with section 3 of API 2510-1995.

(b) 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.

(c) Storage areas having liquefied petroleum gas containers 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".

(d) 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.

(e) Above-ground containers exceeding 2,000 gallons individual water capacity shall be oriented so that their longitudinal axes do not point toward other liquefied petroleum gas containers within that installation.

Amended by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).

In (a), substituted "1995" for "1989"; in (b), substituted "may require the owner to submit a risk analysis based on a recognized standard and may impose" for "shall determine" and "on" for "of" following "restrictions".

5:18-5.4 Fencing

The liquefied petroleum gas system shall be enclosed within an industrial type fence at least six feet high with at least two egress gates opening outward and remotely located from each other, or be within an approved fenced plant area and protected from tampering.

5:18-5.5 (Reserved)

Amended by R.1995 d.391, effective July 17, 1995.
See: 27 N.J.R. 1950(a), 27 N.J.R. 2694(b).
Repealed by R.2003 d.200, effective May 19, 2003.
See: 35 N.J.R. 7(a), 35 N.J.R. 2187(a).
Section was "General".

**SUBCHAPTER 6. RELEASE OF PLANS OR
SUBMITTAL OF NOTICE OF LP-GAS
INSTALLATION AND APPROVAL OF NEW
LP-GAS SYSTEMS**

5:18-6.1 Submittal of plans

(a) As required in (b) below, at least three sets of plans shall be filed with the New Jersey Department of Community Affairs, Division of Codes and Standards, Bureau of Code Services, PO Box 816, Trenton, New Jersey 08625-0816 prior to construction or installation of a proposed LP-Gas system or a substantial alteration to an existing system. Following plan release by the Bureau, one set of plans shall be submitted by the applicant to the local construction official in the municipality where the LPG system will be located.

(b) These plans shall be filed for:

1. An LP-Gas system with an aggregate water capacity of over 2,000 gallons;

i. Exception: Plans shall not be required for LP-Gas systems with an aggregate water capacity of over 2,000 gallons that will remain in place for six months or less. However, these temporary systems shall be subject to the inspection and notice requirements of N.J.A.C. 5:18-6.3 and 6.4; or

2. An LP-Gas system designed to transfer liquid from one container to another;

(c) Prints of drawings shall be sealed by a professional engineer and shall comply with the requirements of the State Board of Professional Engineers and Land Surveyors.

(d) Plans shall be titled, stating name of user, location of work by street address or description, municipality, date of drawing, drawing number, and all revisions thereto.

(e) Plans shall be drawn to scale to produce good legibility.

(f) Plans required by (b) above shall include the following information:

1. A plot plan of the area within 150 feet of the LP-Gas system to scale, or with appropriate distance indicated on the plot plan, showing on-site and off-site buildings, structures, property lines, use groups of buildings or structures, and distance from bulk quantities of hazardous materials.

2. Design and details of foundations or supports for all containers and equipment of an installation. The foundation drawing shall include a description of the soil and allowable soil pressure.

3. A schematic, isometric or plan drawing of the entire system with specifications. This drawing shall include all equipment, parts, piping, pumps, valves, controls, safety devices, material, instrumentation and electrical systems for both power and light necessary to evaluate the safe operation of the system.

4. Container outline drawings indicating its dimensions, fittings, connections, capacity, design pressure, and code under which the container is built.

5. Appropriate information on fire protection facilities at the site and available public fire services for systems exceeding 4,000 gallons aggregate water capacity.

i. This information shall include a fire analysis which may be provided by the engineer of record, providing that he or she submits with his or her analysis proof of consultation with the local Fire official.

(g) When projects are of a repetitive nature, such as those involving standard components or previously approved packaged units, standard drawings may be utilized.

(h) All drawings and documents shall include notation of any and all revisions with date of change noted.

(i) Any specifications, design information, or data germane to the plan approval shall be made available to the Bureau upon written request.

(j) Plans submitted shall be accompanied by a letter of certification or equivalent certification on the plan signed by the professional engineer of record that the plans comply with the applicable requirements 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. 12:200-5.1, with stylistic revisions.

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 (a) and (b); deleted (d) and (e); recodified former (f) through (l) as (d) through (j); in new (i), substituted "Bureau" for "Office of Safety Compliance"; in new (j), substituted "the applicable requirements of this chapter" for "Liquefied Petroleum Gases of N.J.A.C. 5:18".

5:18-6.2 Release of plans

(a) The Bureau shall issue a letter of plan release after the plans have been examined and found to be in compliance with the applicable requirements of this chapter.

(b) Two copies of plans released by the Bureau shall be retained by the Bureau for its inspection service and official records. All other copies shall be returned to the applicant or professional engineer of record.

1. The Bureau shall provide written notification to the local construction official whenever it releases a plan.

(c) One set of the returned plans shall be kept on the construction site for inspection services by the Bureau during the entire construction period for the system.

(d) If a set of plans has been released and construction has not been completed within 18 months from the date of plan release, the plan release for that site shall be considered expired unless extended or renewed by the Commissioner.

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. 12:200-5.2. In (e)1: added "the product not exceeding five percent of tank capacity . . ." to text.

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 (a); in (b), substituted references to released for approved and Bureau for Office of Safety Compliance throughout and added 1; deleted (d) and (e) and recodified former (f) as (d).

5:18-6.3 Approval of new LP-Gas system

(a) All new LP-Gas systems for which plans are required pursuant to N.J.A.C. 5:18-6.1 and all systems of over 2,000 gallons aggregate water capacity that will remain in place for six months or less shall be subject to inspection by the Bureau, after erection, to ensure that the LP-Gas facility is constructed in accordance with the requirements of this chapter. The inspection shall be performed after receipt of notification of completion from the professional engineer of record, who shall submit the completed application form and a letter of completion to the Bureau. The inspection shall be made within seven business days of receipt of a request for inspection by the Bureau. If the erected site conforms to the requirements of this chapter, a certificate of approval shall be issued to the applicant or the professional engineer of record.

1. Exception: An engineering report shall not be required for systems that will remain in place for six months or less. For such systems, the applicant shall submit a request for inspection to the Bureau.

(b) Containers shall not be filled until the approval covered in (a) above has been obtained, except that:

1. Product not exceeding five percent of tank capacity may be placed in the container so that tests and adjustments may be made by the installer; or

2. Containers may be filled for emergency or critical use, when approved by the Commissioner.

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

Added new (a)1, with updated revisions in text.

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 "notice of LP gas installation" for "project data report" throughout.

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. 5:18-6.3, Submittal of notice of LP-Gas installation, is recodified to N.J.A.C. 5:18-6.4.

5:18-6.4 Submittal of notice of LP-Gas installation

(a) A notice of LP-Gas installation shall be filed for all new liquefied petroleum gas systems for which plans are not required under N.J.A.C. 5:18-6.1(b), except that a notice of LP-Gas installation is not required for a system that has an individual or aggregate water capacity of 250 water gallons or less.

(b) The notice of LP-Gas installation required by (a) above shall be filed with the Bureau of Code Services upon installation of new liquefied petroleum gas systems and shall be filed before issuance of a Certificate of Approval, certifying that the work has been completed in accordance with the provisions of the code, except as is otherwise provided in this chapter. The local code official shall not accept an application for a Certificate of Approval without a copy of the notice of LP-Gas installation.

(c) The notice of LP-Gas installations shall be filed with the New Jersey Department of Community Affairs, Division of Codes and Standards, Bureau of Code Services, PO Box 816, Trenton, New Jersey 08625-0816.

(d) The notice of LP gas installation shall contain the following information:

1. Name of owner and user of LP-Gas facility;
2. Street address of facility;
3. Municipality and county where facility is located;
4. Telephone number of user of LP-Gas facility;
5. Number and size of LP-Gas containers.

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

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

Added new (a)1, with updated revisions in text.

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 "notice of LP gas installation" for "project data report" throughout.

Recodified from N.J.A.C. 5:18-6.3 and 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.2004 d.199, effective June 7, 2004.

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

Rewrote (b).

SUBCHAPTER 7. VIOLATIONS, ADMINISTRATIVE PENALTIES AND HEARINGS

5:18-7.1 Violations/penalties

(a) Any person, firm, association or corporation who violates any of the provisions of the Act, or of the rules

adopted thereunder, shall be liable for a penalty of not less than \$50.00, nor more than \$500.00.

(b) Each day during which any violation of the Act or the rules adopted thereunder continues shall constitute an additional, separate and distinct offense.

(c) In assessing the amount of the penalty to be imposed pursuant to the Act and to this chapter, the Commissioner shall consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular cited violation:

1. The seriousness of the cited violation;
2. The past record of compliance with the provisions of the Act, and the rules adopted thereunder, by the alleged violator;
3. The degree of cooperation afforded to the Commissioner's representatives by the alleged violator in securing compliance with the provisions of the Act and rules adopted thereunder; and
4. Whether the cited violation was willful in nature.

5:18-7.2 Hearings

(a) Whenever a notice of violation and/or penalty is levied pursuant to this chapter, the alleged violator shall be provided with:

1. Notification of the violation;
2. The amount of the penalty to be imposed; and
3. An opportunity to request a formal hearing.

(b) A request for a formal hearing must be made in writing and received within 21 calendar days following service of the Commissioner's notice of violation.

(c) All hearings shall be conducted pursuant to 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.

(d) If a hearing is not requested within 21 calendar days following receipt of the notice of violation, the notice of violation shall become the Final Order upon expiration of the 21 day period following receipt thereof.

(e) The alleged violator may request the initiation of a settlement conference at the time that the request for a formal hearing is made. If a settlement conference is requested, or the Department determines that a settlement conference would be useful, the settlement conference shall be scheduled and conducted by the Department within 30 days of the receipt of the request for a formal hearing.

(f) If a settlement is not agreed upon or no settlement conference is scheduled, the matter shall be transmitted to the Office of Administrative Law (OAL) for a hearing.

(g) Payment of the penalty shall be due when a final agency determination is issued or when a notification becomes a final decision because no appeal has been filed.

(h) All payments shall be made payable to the Department of Community Affairs in the form of a certified check or money order, or such other form as the Department deems suitable.

(i) Upon entry of the final decision, the penalty imposed may be recovered with costs in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

Administrative change.
See: 32 N.J.R. 835(a).

5:18-7.3 Correction of violations

(a) In addition or as an alternative to the penalties set forth in N.J.A.C. 5:18-7.1, any person, firm or corporation who violates, or remains in violation of any of the provisions of the Act, or the rules adopted thereunder, may be directed and ordered by the Commissioner, by way of a written notice, to take the remedial steps necessary to correct the cited violation. Such notice shall be:

1. Served personally upon the alleged violator; or
2. Mailed by registered or certified mail to:
 - i. The principal office of the person, firm or corporation; or
 - ii. If the alleged violator is an individual, or are individuals, such notice shall be mailed to his or her, or their residence.

(b) If the Commissioner's order is not complied with and the cited violation is not corrected within 20 days of the date of service of the order, the Commissioner may institute an action for injunctive relief or for an abatement in Superior Court.

(c) Every such order issued by the Commissioner under the provisions of the Act, or the rules adopted thereunder, shall be prima facie evidence of the truth of the matter and contents set forth therein.

(d) No appeal taken by the alleged violator shall suspend the operation on an order made by the Commissioner unless, in the opinion of the court, justice may require suspension thereof pending final disposition of the appeal.

SUBCHAPTER 8. ANNUAL ASSESSMENTS

Authority

N.J.S.A. 21:1B-2 and 15.