# **Propane and Liquefied Petroleum Gas Regulations**

# CHAPTER 13. PROPANE AND LIQUEFIED PETROLEUM GAS Subchapter A. LIQUEFIED PETROLEUM GAS

#### GENERAL PROVISIONS

#### § 13.1. Definitions.

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

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

ASME Code-"The Boiler and Pressure Vessel Code," as adopted under the Boiler and Unfired Pressure Vessel Law, and any published cases and interpretations adopted by the Industrial Board under § 3a.4 (relating to adoption of National standards).

Act-The Propane and Liquefied Petroleum Gas Act (35 P. S. §§ 1329.1-1329.19).

*Authorized attendant*-An employee of a manufacturer, distributor or user of LPG who was trained, in a manner approved by the Department, in the proper performance of duties and who was officially recognized by the LPG facility operator to perform those duties.

Boiler and Unfired Pressure Vessel Law-35 P. S. §§ 1331.1-1331.19.

#### Bulk plant-

- i. An LPG storage facility which has the primary purpose of distribution of LPG and which has:
  - A. A bulk storage capacity of more than 2,000 gallons.
  - B. Container-filling or tank-loading facilities on the premises.
- ii. The term includes a consumer of LPG that uses storage tanks to refill the consumer's own containers if the consumer's storage LPG facility has a bulk storage capacity of less than 2,000 gallons and the storage tanks are not owned by a distributor.

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

Container-A vessel such as a cylinder, a tank, a portable tank and a cargo tank used for the transporting or storing of LPG.

*Cylinder*-A container constructed in accordance with United States Department of Transportation regulations, 49 CFR Part 178, Subpart C (relating to specifications for cylinders).

Cylinder exchange cabinets-A lockable and ventilated metal locker or rack for the storage of LPG cylinders

that prevents tampering with valves and pilferage to the cylinders.

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

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

#### Distributor-

- i. A person authorized by the Department to sell or transfer LPG.
- ii. The term includes the owner of a cylinder exchange cabinet or a dispensing station.

GPS-Global positioning system.

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

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

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

*LPG-Liquefied petroleum gas-*A material in liquid form that is composed predominately of any of the following hydrocarbons or their mixtures:

- i. Propane.
- ii. Propylene.
- iii. Normal butane or isobutane.
- iv. Butylenes.

LPG facility-Distributors, bulk plants and industrial users.

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

NFPA 54-The "National Fuel Gas Code," 2009 edition, issued by the NFPA.

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

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

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

National Board Inspection Code-The "National Board Inspection Code," as adopted under the Boiler and Unfired Pressure Vessel Law, issued by the National Board of Boiler and Pressure Vessel Inspectors.

*Person*-An individual, firm, partnership, unincorporated association, corporation, political subdivision or authority, including the Commonwealth.

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

Tank-A portable or stationary ASME-approved vessel used to store liquefied petroleum gas.

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

### § 13.2. Scope.

This chapter applies to:

- 1. The registration and permitting of bulk plants, distributors, industrial users, dispensing stations and cylinder exchange cabinets.
- 2. The storage, transfer, sale and use of LPG.
- 3. The design, construction, location, operation and inspection of tanks, cylinders, equipment, piping and appliances used in the handling, storage and use of LPG.
- 4. The approval of training programs for authorized attendants who transfer LPG.

### § 13.3. Fees.

- a. The following fees apply to LPG facility applications, plan approvals, permits and training program certifications. Fees are nonrefundable.
  - 1. Annual permit and registration fees:
    - i. Bulk plants with the following storage capacities:
      - A. 30,000 gallons or less \$ 90
      - B. 30,001 to 90,000 gallons \$135
      - C. 90,001 gallons or more \$180
    - ii. Industrial users with the following storage capacities:
      - A. 2,001 to 30,000 gallons \$ 45
      - B. 30,001 to 180,000 gallons \$ 90
      - C. 180,001 gallons or more

- iii. Distributors, other than cylinder exchange cabinets, having the following number of customers:
  - A. Less than 1,000 \$112.50
  - B. 1,000 to 2,999 \$235
  - C. 3,000 to 5,999 \$337.50
  - D. 6,000 or more \$450
- iv. Retail cylinder exchange cabinet location\$ 50(per physical address)
- 2. Application and plan review, including Fire Safety Analysis review, for new LPG facilities exceeding 400,000 gallons and existing LPG facilities expanded to exceed 400,000 gallons in total capacity \$500
- 3. Application and plan review fee:
  - i. For a LPG facility 4,001 to 400,000 gallons in total capacity \$150
  - ii. For a LPG facility less than 4,001 gallons in total capacity \$50
- 4. Duplicate permit fee \$ 25
- 5. Authorized attendant training program approval \$200
- 6. Request for Industrial Board variance, appeals and extensions of time \$100
- b. The Department will invoice bulk plant owners, industrial users and distributors annually for each location of usage. Payment is due within 30 days of invoice date.

### § 13.4. Adoption of National standards.

- a. The Department adopts the following standards and any of the standards' published cases, interpretations or tentative interim amendments approved by the Industrial Board under this chapter and the act. Other authorities referenced in these standards are adopted if the authority is not excluded in subsection (b):
  - 1. NFPA 54.

- 2. NFPA 58.
- b. The Department will not adopt the following NFPA 58 provisions:
  - 1. Chapter 9 (relating to vehicle transportation).
  - 2. Chapter 13 (relating to marine shipping and receiving).
- c. The following NFPA 58 provisions which will take effect on the enumerated dates:
  - 1. Chapter 5, section 5.2.3 regarding the requalification of cylinders filled onsite, effective January 1, 2013.
  - 2. Chapter 6, section 6.25.3.2 regarding fire safety analysis for existing installations, effective January 1, 2012.
  - 3. Chapter 5, section 5.7.4.2(D) regarding the installation of valves for existing installations, effective January 1, 2018.
  - 4. Chapter 6, section 6.11 regarding the installation of internal valves for existing installations, effective January 1, 2018.
- d. The Industrial Board may also approve any NFPA 54 and 58 published cases, interpretations or tentative interim amendments as standards for use under the act and chapter. Provisions enumerated in subsection (b) may not be approved.

### § 13.5. Registration and annual permits.

- a. An operator of an LPG bulk plant, a distributor and an industrial user shall annually register with the Department on a registration form provided by the Department. The Department will make the necessary form available on its web site at www.dli.state.pa.us.
- b. An applicant for registration shall submit a completed registration form, the annual fee required under § 13.3 (relating to fees) and a valid copy of an industry standard insurance certificate equal to or greater than the amount of liability insurance required under § 13.6 (relating to insurance).
- c. The Department will issue an annual permit. The permit shall be posted at the location of each bulk plant, distributor and industrial user.

#### § 13.6. Insurance.

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

- 1. An LPG facility with a storage capacity of not more than 9,000 gallons shall maintain minimum liability coverage of \$250,000.
- 2. An LPG facility with a storage capacity in excess of 9,000 gallons shall maintain minimum liability coverage of \$1 million per incident and \$2 million in the aggregate.

# § 13.7. Transfer by authorized attendant and supply.

Both of the following apply to LPG transfer and supply:

- 1. Only authorized attendants may transfer LPG.
- 2. A distributor may not supply LPG to any bulk plant, industrial user or other distributor unless the distributor has a current annual permit.

#### § 13.8. Transfer of LPG and removal of containers.

- a. (a) A person may not transfer, sell, fill, deliver or permit to be delivered any LPG or use an LPG container unless authorized to do so by the owner of the LPG container and authorized by the Department to do so or authorized to do so by emergency response agencies.
- b. (b) A person acting on behalf of an authorized emergency response agency who transfers LPG or disconnects any LPG container shall notify the container owner within 5 days after that action.
- c. (c) A person who disconnects an LPG container shall secure the LPG container in a safe fashion.
- d. (d) Owners or distributors of LPG containers shall remove the containers within 30 days of notification from the property owner to do so.

### REQUIREMENTS FOR FACILITIES, TANKS AND CYLINDERS

### § 13.20. Application process and plan approval.

- a. The following shall submit an application to the Department before installation:
  - 1. An owner or operator of an LPG tank exceeding 2,000 gallons capacity.
  - 2. An owner or operator of a fixed location with aggregate capacity exceeding 4,000 gallons.
  - 3. An owner or operator of a dispensing station or a cylinder exchange cabinet location.
- b. The application must contain the following:
  - 1. A completed registration form and proof of valid insurance required under § 13.5 (relating to registration and annual permit).
  - 2. The appropriate fee required under § 13.3 (relating to fees).
  - 3. Plans that contain the following information:
    - i. Equipment to be installed.
    - ii. Distances of equipment to buildings and property lines.
    - iii. Security measures provided.
    - iv. Fire protection measures provided.
    - v. Vehicle protection measures provided.

- 4. A fire safety analysis required by NFPA 58, Chapter 6, section 6.25.
- 5. A manufacturer's data report (U1-A) or Pennsylvania special number for each unfired pressure vessel.
- c. A Department-provided notice of intent to install form may be submitted instead of the plans required under subsection (b)(3) for the following:
  - 1. A distributor installing or expanding a bulk plant with a capacity of less than 9,000 gallons.
  - 2. An industrial user with a total storage capacity of less than 9,000 gallons.
- d. The Department will inspect applicants under subsection (a) and (c) for compliance with the plans or notice of intent to install before issuance of the initial annual permit.
- e. If the inspection reveals a violation of the act or this chapter, the Department will issue a written notice of deficiency to the owner or operator. The written notice of deficiency will contain a certification to be completed by the owner or operator certifying that the deficiencies were corrected. The Department will not issue an annual permit unless the certification is executed by the owner or operator and returned to the Department after the deficiencies are corrected.
- f. An owner or operator may not operate an LPG tank, fixed location, dispensing station or cylinder exchange cabinet until it receives an annual permit issued by the Department.
- g. A manufacturer shall register a data report (U1-A) for each unfired pressure vessel with the National Board. If an U1-A is not available, the manufacturer shall obtain a Pennsylvania special number in accordance with section 7 of the Boiler and Unfired Pressure Vessel Law (35 P. S. § 1331.7) and Chapter 3a (relating to boiler and unfired pressure vessel regulations).

### § 13.21. LPG facilities over 400,000 gallons.

- a. The owner or operator of a new LPG facility in excess of 400,000 gallons or an existing LPG facility expanded to exceed 400,000 gallons shall submit an application to the Department which includes the following:
  - 1. A completed registration form required under § 13.5 (relating to registration and annual permits) and a completed application required under § 13.20 (relating to application process and plan approval).
  - 2. Documentation and plans providing the following information:
    - i. Storage quantities.
    - ii. Proximity to populated areas and public ways.
    - iii. The impact of any rejection from the Department upon the LPG facility's ability to service current and anticipated consumer needs and upon the LPG facility's business investment.
    - iv. The risk to and from existing adjacent facilities.
    - v. Topography of the site.

- vi. Access for emergency vehicle response.
- vii. Public and private utilities.
- viii. Requirements for receipt or shipment of products.
- ix. Compliance with local land use ordinances.
- x. The safety plan proposed by the LPG facility, such as emergency systems, spill containment, fire protection, fencing and lighting.
- 3. Proof of notification to the municipality required in subsection (b). The Department will accept a copy of the notification and signed certified mail receipt card as proof of notification to the municipality.
- 4. The appropriate fee required under § 13.3 (relating to fees).
- b. The applicant shall notify the municipality where the LPG facility is located by certified mail that an application is being filed with the Department.
- c. The Department will publish notice of the application in the *Pennsylvania Bulletin* within 10 business days of receipt of the application. An aggrieved party may file a protest with the Department 45 days from the publication of the notice. A municipality or county may file written comment with the Department within 45 days from publication of the notice.
- d. Within 90 days of publication of the notice, the Department will issue a written determination containing the approval or disapproval of the application. The Department will send a copy of the determination by certified mail to the applicant and to all parties who filed a notice of protest or submitted written comments.
- e. The LPG facility owner or operator may not install or operate the LPG facility or the expanded portion of the LPG facility until it has received an annual permit issued by the Department.

# § 13.22. Underground tanks.

- a. Underground tanks shall be installed in accordance with NFPA 58.
- b. A distributor shall keep records of installation locations, including their location by GPS coordinates, for individual underground LPG tanks exceeding 2,000 gallons water capacity.

# § 13.23. Repairs and alterations to ASME vessels.

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

# § 13.24. Cylinder exchange cabinets.

- a. A retailer or location using a cylinder exchange cabinet shall comply with section 8.4.1 of NFPA 58.
- b. The term "busy thoroughfares or sidewalks" contained in section 8.4.1.2(3) of NFPA 58 includes sidewalks, concrete aprons and parking lots at retail establishments.

#### TRAINING PROGRAMS

### § 13.40. Training programs for authorized attendants.

- a. An individual shall satisfactorily complete a Department-approved training program to become an authorized attendant to transfer LPG.
- b. Programs must include training on the following:
  - 1. Physical properties and combustion characteristics of propane.
  - 2. Propane industry standards, safety codes and regulations.
  - 3. Basic parts of propane tanks, cylinders and bulk storage installations.
  - 4. Proper use of safety and protective equipment.
  - 5. Maintenance of safe working environment.
- c. Programs for attendants who will deliver LPG must include the following training in addition to the training enumerated in subsection (b):
  - 1. Proper inspection, maintenance and operation of bulk propane delivery vehicles.
  - 2. Proper inspection and filling of propane storage containers.
  - 3. Proper delivery of propane, including exchange and filling of LPG containers.
- d. Programs for attendants who are employed in bulk plant operations must include the following training in addition to the training enumerated in subsection (b):
  - 1. Identification and installation of valves in propane storage containers.
  - 2. Identification and installation of gauges in propane storage containers.
  - 3. Safe removal of propane from tanks and cylinders at the plant and at the container site.
  - 4. Inspection, maintenance and filling of propane tanks and cylinders at the plant and at the container site.
  - 5. Proper unloading of propane transports and rail cars, if the employee is responsible for this activity.

# § 13.41. Training program approval.

- a. The Department will approve LPG facility operator-provided training programs. An LPG facility operator that has individuals who transfer LPG shall submit a completed application for training program approval to the Department with a detailed description of its training program for authorized attendants and the appropriate fee under § 13.3 (relating to fees).
- b. The Department will issue a program approval to each approved training program or inform the LPG facility operator in writing of its reasons for rejecting a training program.

- c. An LPG facility operator shall notify the Department in writing of changes in an approved training program.
- d. Instead of developing and submitting a training program for authorized attendants, an LPG facility operator may utilize the Propane Education and Research Council training programs. The LPG facility shall notify the Department in writing that it is using a Propane Education and Research Council training program.
- e. An LPG facility operator shall maintain training records for an authorized attendant as long as the authorized attendant is employed by the LPG facility. The records must contain the following information:
  - 1. The date of training.
  - 2. The name of authorized attendant.
  - 3. The name of course.
  - 4. The name of trainer or supervisor.
- f. The Department may revoke approval of any training program that does not comply with § 13.40 (relating to training programs for authorized attendants) or this section. Actions will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

#### **ADMINISTRATION**

# § 13.50. Suspension of annual permit for container.

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

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

- a. The Department may suspend an owner's or operator's annual permit for any of the following reasons:
  - 1. Failure to pay the required registration fee in § 13.3 (relating to fees).
  - 2. Violation of the act or this chapter.

### § 13.52. Notice of deficiency.

- a. The Department will use the following procedures to suspend an annual permit or for alleged violations of the act or this chapter:
  - 1. The Department will issue a written notice of deficiency to the owner or operator of the container or LPG facility. The notice will contain a description of the deficiency, an order requiring repairs and correction of the deficiency and a compliance date. The notice will contain a certification to be completed by the owner or operator certifying that the required repairs were

completed and the deficiency was corrected.

- 2. The owner or operator shall execute the certification and submit it to the Department immediately after the required repairs are completed and the deficiency is corrected.
- 3. If the owner or operator does not correct the deficiency within the period of time allowed in the notice of deficiency or fails to return the certification, the Department may issue an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause).
  - i. The order to show cause will contain a statement of the grounds for the action, the alleged violations of the act and this chapter and notification that the container or LPG facility may be placed out of service. The order to show cause will contain notification that the owner or operator shall submit a written answer within 30 days. The Department will serve the order to show cause upon the owner or operator.
  - ii. The owner or operator may file a written answer to the order to show cause with the Department within 30 days following service of the order to show cause under 1 Pa. Code § 35.37 (relating to answers to orders to show cause). The answer must contain specific admissions or denials of the allegations contained in the order to show cause and set forth the specific facts, matters of law or regulation interpretation relied upon by the owner or operator. The answer may contain a request for a variance, an extension of time for compliance or an appeal. The Department will forward requests for variances, extensions of time or appeals regarding interpretations of this chapter to the Industrial Board.
- b. The Department will consider the request for variance, extension of time or appeal as a stay to an enforcement action.
- c. The Department will inspect the container or LPG facility at the expiration of an extension of time or other time period granted for compliance under this section. If the container or LPG facility violates the act or this chapter following inspection, the Department may seal the container or LPG facility.
- d. The Department will issue an order to discontinue operation to the owner or operator for a violation that was not corrected. The Department will serve the order upon the owner or operator by certified mail or personal service. The order to discontinue operation will require the owner or operator to discontinue the use of the container or LPG facility within 24 hours.
- e. After the container or LPG facility is sealed, it may not be returned to service until the violations have been corrected, the repairs have been made and the Department removes the seal.
- f. A party aggrieved by a notice of deficiency or a notice to discontinue operation may appeal the order to the Industrial Board within 30 days of the issuance of the order. Appeals from the Industrial Board's order may be filed with the Commonwealth Court within 30 days of the date of the order.
- g. This section supplements 1 Pa. Code §§ 35.14 and 35.37.

# § 13.53. Notice and hearing.

Actions of the Department relating to notice of deficiency, a notice to discontinue operation or suspension of annual permit under §§ 13.50-13.52 (relating to suspension of annual permit for container; suspension of annual permit for an owner or operator; and notice of deficiency) will be taken subject to the right of notice, hearing and adjudication under 2 Pa.C.S. (relating to administrative law and procedure). Proceedings will be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

### § 13.54. Municipal preemption.

The Department has the sole right and ability to regulate all matters related to the operation of the LPG industry under section 15 of the act (35 P. S. § 1329.15).

- 1. A municipality or other political subdivision may not adopt or enforce an ordinance or regulation which differs from or conflicts in whole or in part with the act or this chapter regarding permits, licensing standards, fees, construction, installation, maintenance, operation, inspection, location or placement of LPG containers or LPG facilities or any other matters related to this industry within this Commonwealth.
- 2. A municipality may not prohibit placement of any LPG container in any existing yard setback area except to establish an absolute setback of 10 feet from a residential property line.
- 3. A municipality may retain the right, under local zoning ordinances, to require an LPG facility to locate within approved residential, industrial commercial or other zones and to require an LPG facility to obtain zoning permits, pay zoning fees and undergo inspections related to the zoning of the LPG facility. Any building at an LPG facility must be in compliance with the municipal standards applied to primary structures.