RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF CODES AND STANDARDS

Liquefied Petroleum Gas Rules
Update of the Edition of NFPA 58 Referenced; Timeframes for Certified Employee Training Program; Training for Motor Vehicle Fueling
Adopted Amendments: N.J.A.C. 5:18-3.1, 3.3, 3.6, 5.1, 6.3, 10.3, 10.4 and Appendix A

Proposed: September 6, 2016, at 48 N.J.R. 1723(a).
Adopted: February 27, 2017, by Charles A. Richman, Commissioner, Department of Community Affairs.
Filed: March 29, 2017, as R.2017 d.076, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).
Authority: N.J.S.A. 21:1B-2, 21:1B-15, 34:1-20, and 34:1A-3(e); and Reorganizational Plan No. 002-1998.
Effective Date: May 1, 2017.
Expiration Date: September 2, 2017.

Summary of Public Comments and Agency Responses:

The below comments were sent by a retired employee of the Department of Community Affairs, Mitchell Malec.

1. COMMENT: The commenter suggests that the State should forgo the adoption of the 2014 edition of the code since the 2017 version is available.

RESPONSE: As a former employee, the commenter should be aware that the adoption of a newer version of the code is not a quick process. The Department is in favor of adopting the most recent edition of the code as soon as possible. An adoption of the 2017 version of the code will take a substantial amount of time, which would mean relying on the 2011 edition of NFPA 58 for a significantly longer period of time. The proposal to adopt the 2014 version of the code is consistent with adopting the newest version of the code within the appropriate timeline. The Department is beginning its review of the 2017 version of the code and will submit a notice of proposal accordingly.

2. COMMENT: The commenter questions why other versions of standards were not also updated.

RESPONSE: The Department agrees that there are other standards that are in need of update, however, they are not part of this rulemaking. The Department thanks the commenter for his suggestion.

3. COMMENT: The commenter suggests that the Department failed to do a complete review of N.J.A.C. 5:18 as it applies to NFPA 58, as no changes were proposed to N.J.A.C. 5:18-3.3, 3.6, 5.1(a)3, and Appendix A, which reference older editions of NFPA 58 (along with other older editions of other standards).

RESPONSE: The commenter is correct that there are other sections of the code that reference previous editions of NFPA 58. These sections, including the appendix, are updated on adoption.

4. COMMENT: The commenter indicates that the Department modified the definition of bulk plant in the notice of proposal, retaining the threshold for storage at 2,000 gallons water capacity rather than the 4,000 gallons in the standard. The commenter also points out that there is a Tentative Interim Amendment (TIA) issued by NFPA that is related to the change.

RESPONSE: In the 2014 edition, the definition of "bulk plant" was changed to include systems that are greater than 4,000 gallons water capacity, but the code requirements still reference the over 2,000 gallon threshold. The TIA attempted to correct the inconsistency by eliminating all of the bulk plant requirements that are applicable to tanks that are greater than 2,000 gallons but equal to or less than 4,000 gallons. Since the Department changed the definition of bulk plant to retain the greater than 2,000 gallon threshold, it is consistent with the requirements of the 2014 edition. The Department has no mechanism for adopting a TIA. Therefore, the bulk plant threshold is kept the same as the previous version and the conflict in the 2014 edition is averted. The Department will consider amending the definitions of "bulk plant" and "industrial plant" as part of the proposed adoption of the 2017 version of NFPA 58, as necessary.

5. COMMENT: The commenter points out that the definition of industrial plant contained in the 2014 edition of NFPA 58 includes farms in the definition of industrial plant.

RESPONSE: The Department has deleted the definition of industrial plant as part of the proposed amendments. Therefore, the issues raised by the commenter about the possible effect of the change on farms are moot. The tanks found at farms are used for either grain drying or, in some cases, for greenhouse heating. Grain drying installations are either 500 to 1,000 gallon tanks because of the size of farms found in New Jersey, so they would not qualify under either definition of industrial plant because of their limited size. Greenhouse installations are typically comprised of multiple 1,000 gallon tanks and are vapor withdrawal at standard pressures. They would also be excluded from the definition based on size.

6. COMMENT: The commenter questions the Department's amendments to the definition of property line in the standard.

RESPONSE: The change was made for consistency with N.J.A.C. 5:18. There has been a definition of property line contained in N.J.A.C. 5:18 for many years and the deletion of the term has traditionally been made upon the adoption of the NFPA 58 standard. The definition found in N.J.A.C. 5:18 was made because of the population density in New Jersey. The conventional thinking is that, because there is a greater population density, the distance between LP-Gas installations should be more restrictive than what is in the national standard. There have been no enforcement problems with the amendment, and inasmuch as the population of the State is expected to grow, the underlying reason for the change continues to exist. The differentiation between public rights of way, where the distance is measured to the far side, versus the far side of private areas that are restricted from development (utility easements of record, non-navigable waterways, and railroad rights of way), is based on assumed frequency of use, and the corresponding chance of injury to the public. The Department has no plans to illustrate the code provisions with examples, nor does it have any plans to amend the illustrations provided in the appendix of NFPA 58.

7. COMMENT: The commenter suggests that the Department review the crash protection provisions in the rules and cited a number of different options that might be acceptable. One concern was the distance between the crash protection and the protected tank.

RESPONSE: The current rules specify two feet while the crash protection provisions found in the Uniform Fire Code specify three feet. The Department is unaware of any issues related to the longstanding provision, which requires at least two feet of separation between the crash protection and the LP-Gas container. The commenter asked why alternatives to bollards, such as ditches, boulders, jersey barriers, etc. are not listed in the code. Alternatives would be allowed under N.J.A.C. 5:18-1.3(n). Not all of the alternatives suggested by the commenter are appropriate. Installations that would create areas where LP-Gas could collect, such as ditches, etc., would not be appropriate.

8. COMMENT: The commenter questions the threshold for the voltage limitation for power lines that are installed less than 10 feet from an LP-Gas container when the power lines location is projected vertically to the ground. The commenter questions the purpose of the requirement and asks whether the requirement should be extended to all power lines.

RESPONSE: The 2014 edition of NFPA, as well as many previous editions, limits power lines that are greater than 660 volts from being located within 10 feet of the LP-Gas container when projected vertically to the ground. The Department has consistently amended this value to greater than 240 volts. The reason for the requirement, according to the NFPA 58 commentary, is to prevent an accident from occurring due to a power line break, which could lead to a failure from arc penetration or

from ignition of the pressure relief valve discharge. While more conservative than the requirements of NFPA 58, the Department believes that the current requirement is appropriate and does not need to be changed at this time.

9. COMMENT: The commenter asked whether revisions to N.J.A.C. 5:18-3.3(r) are needed in light of section 6.6.6(j) of NFPA 58.

RESPONSE: The Department believes that these sections are consistent. Both call for cathodic protection unless the designer can show, based on soil conditions, that it is not needed. Therefore, the Department does not agree that any change is needed.

10. COMMENT: The commenter noted that, in the Summary of the notice of proposal, the Department mentioned that the rules are prospective and asked if this was reflected in the rules.

RESPONSE: N.J.A.C. 5:18-1.1(c) discusses the applicability of the rules to existing installations. It states that systems that were installed in accordance with the rules in effect at the time of installation can be continued in operation unless the continued operation constitutes a serious and substantial threat to health and safety.

11. COMMENT: The commenter suggests that the qualification requirements contained in NFPA 58 section 4.4 should be retained.

RESPONSE: The Department believes that the qualification requirements found in N.J.A.C. 5:18 are appropriate at this time. The qualification requirements found in NFPA 58 are either redundant or in conflict with the requirements found in N.J.A.C. 5:18 and are, therefore, deleted.

12. COMMENT: The commenter suggests that the amount of time that an employee is permitted to work prior to obtaining the necessary CETP qualification be extended to one year rather than the six months provided for in the rulemaking.

RESPONSE: The Department wants to limit the amount of time that someone can work without successful completion of the training program to as short a period of time as is practical. Therefore, the Department believes that the six-month time frame contained in the rulemaking is appropriate.

13. COMMENT: The commenter suggests that the Department should change the numbers and titles of the relevant Certified Employee Training Program to the latest numbers and titles rather than relying on the provision that states that, if the numbers and titles change, the rules refer to the updated names and titles for the subject matter.

RESPONSE: Changing the numbers and titles of the CETP training modules is outside of the scope of the rulemaking, but the Department will consider updating the numbers and titles in a future rulemaking.

14. COMMENT: The commenter suggests that the Department update the version of the "Dispensing Propane Safely" manual that is referenced in the rules.

RESPONSE: The Department was not proposing a change to the document used for dispenser training, therefore, the comment is beyond the scope of this rulemaking. The proposed amendment was to include training for operations that are exclusively dispensing LP-Gas into motor vehicles. However, the Department will take the comment under advisement.

15. COMMENT: The commenter makes suggestions that relate to the Department's training requirements. The commenter, for example, believes that the reference to the training that is used exclusively to dispense LP-Gas into motor vehicles should be an "and" rather than an "or." The commenter also suggests that the Department publish a chart that outlines current and former training requirements, that the Department increase the requirements of skill evaluators, and that the Department not include a written training program specific to dispensing of LP-Gas into motor vehicles, as proposed.

RESPONSE: Though there is some content in the 'Dispensing Propane Safely" manual, where the installation is used exclusively for dispensing into motor vehicles, such as at fleet filling sites, it is the Department's position that the training should be more in depth and focused on dispensing into motor vehicles. Therefore, the proposed amendment is to have the general dispensing training if the operation involves filling cylinders, as well as vehicle mounted containers, but to have specific training if the only operation performed is dispensing into motor vehicles. Therefore, the Department believes that the "or" is appropriate. The Department agrees with the commenter regarding the high priority of proper training requirements, and that these requirements be presented in sufficient clarity. The Department does not intend to publish a chart at this time. The Department is also committed to ensuring that the personnel handling LP-Gas follow proper safety procedures; the Department believes that including a written training program specific to dispensing of LP-Gas is conducive to this, as is including a specific provision relating to LP-Gas motor vehicle dispensing.

Federal Standards Statement

No Federal standards analysis is required because these amendments are not being adopted under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or any State statute that incorporates or refers to a Federal law, standards, or requirements.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 3. NFPA 58 SYSTEMS

5:18-3.1 Standards adopted by reference

(a) The Liquefied Petroleum Gas Code, "NFPA 58-2014," is hereby adopted by reference with the following modifications:

1. (No change.)

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

i. (No change.)

ii. Section 3.3.10 is deleted and the definition of "Bulk plant" found in N.J.A.C. 5:18-2.1 is substituted in lieu thereof.

iii. Section 3.3.34 is deleted and the definition of "Industrial plant" found in N.J.A.C. 5:18-2.1 is substituted in lieu thereof.

3.-4. (No change.)

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

i. Section 6.3.1.1 is amended to delete the words "that can be built upon" on lines 5 and 6.

ii. Section 6.3.1.3 is amended to delete the words "that can be built upon" on line 4.

iii. Section 6.3.2.2 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 6.3.2.3 is amended to delete the words "that can be built upon" on line 3.

v. Table 6.3.1.1 is amended to delete the words "that can be built upon" in the title.

vi. Section 6.4.4.13 is amended to delete the words "600 volts, nominal" and replace them with the words "240 volts, nominal."

vii. Section 6.5.1.4 is deleted.

Recodify existing ix.-xiii. as viii.-xii. (No change in text.)

xiii. Section 6.15.3 is deleted and the following shall be substituted in lieu thereof "Liquefied Petroleum Gas vapor piping between the second stage regulator and appliances shall be tested in accordance with the Uniform Construction Code (N.J.A.C. 5:23)."

xiv. Section 6.17.3.2(2) is amended to add the following sentence "Where containers are bedded and backfilled such that there is a minimum of 12" of washed concrete sand surrounding the tank, the test interval shall not exceed 60 months."

xv. Section 6.20 is deleted and the following language is substituted, "The installation of LP-Gas systems in buildings, on building roofs and exterior balconies 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)"

xvi. Table 6.22.3.6 is amended to delete the words "that can be built upon" on line 6 under the heading "Exposure."

xvii. Section 6.24 is deleted.

xviii. Section 6.25.3.8 is amended to delete the words "remote closure and" in item (1) and to delete the words "fitted for remote closure and" in item (2).

xix. Section 6.25.3.9 is deleted.

xx. Section 6.25.3.10 is deleted.

xxi. Section 6.25.3.13 is amended to delete the words "in accordance with 6.25.3.13(A) or 6.25.3.13(B)" and substitute in lieu thereof "in accordance with N.J.A.C. 5:18-3.3(i) or 5:18-3.3(j)."

6. (No change.)

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

i.-ii. (No change.)

iii. Section 8.4 is deleted and the following language is substituted "Cylinder exchange cabinets shall be installed and maintained in accordance with the Uniform Fire Code (N.J.A.C. 5:70)."

iv. Section 8.5 is deleted.

8. (No change.)

9. Chapter 10 of NFPA 58 entitled "Buildings or Structures Housing LP-Gas Distribution Facilities" is deleted.

Recodify existing 9.-10. as 10.-11. (No change in text.)

(b) (No change.)

5:18-3.3 Container storage

(a) (No change.)

(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]****2014***.

1.-2. (No change.)

(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]****2014***, as provided below:

1.-2. (No change.)

(d) (No change.)

(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]****2014***, 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]****2014***.

(g)-(r) (No change.)

5:18-3.6 Cylinder exchange cabinets

(a) In addition to complying with the requirements of Chapter 8 of the Liquefied Petroleum Gas Code, NFPA 58-*[2008]****2014***, the operator of every location providing LPG cylinder exchange cabinets shall:

1.-10. (No change.)

SUBCHAPTER 5. API 2510 INSTALLATIONS

5:18-5.1 Standards adopted by reference

(a). API 2510-2001, "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.-2. (No change.)

3. NFPA 58-*[2008]****2014*** may be used as the standard for those areas not specifically addressed by API 2510-2001, provided that the provisions of NFPA 58 do not conflict with the intent of API 2510-2001.

(b) (No change.)

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

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

(a) (No change.)

(b) For systems designed exclusively to dispense LP-Gas into motor vehicles, the applicant shall submit for approval a written training program or training program using other media to be given to prospective operators of the system. The training program must include standard operating instructions, system safety features and their use, system emergency procedures, and basic system maintenance and inspection.

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

1.-2. (No change.)

SUBCHAPTER 10. LICENSING

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.-3. (No change.)

4. The appropriate parts of 2, 3, and 4 of the CETP program must be completed within six months of the date of hire.

5.-7. (No change)

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

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; or, for systems designed exclusively to dispense LP-Gas into motor vehicles, the training program submitted as part of system approval in accordance with N.J.A.C. 5:18-6. 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) (No change.)

APPENDIX A

AVAILABILITY OF STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

A copy of each of the standards and publications referenced in this chapter is on file and may be inspected at the following office of the Division of Codes and Standards between the hours of 9:00 A.M. and 5:00 P.M. on normal working days:

State of New Jersey
Department of Community Affairs
Division of Codes and Standards
101 South Broad Street
Trenton, New Jersey

Copies of the referenced standards and publications may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meanings and refer to the organizations issuing the standards and publications listed or to volumes of statutes or administrative rules.

. . .

NFPA 58-*[2008]****2014*** Liquefied Petroleum Gas Code

. . .