

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Liquefied Petroleum Gas

Propane Service Certification, Leak Testing and Requalification of DOT

Cylinders

Proposed Amendments: N.J.A.C. 5:18-1.3, 3.1, and 10.3

Authorized By: Lori Grifa, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 21:1B-2, 34:1-20, 34:1A-3(e), and 52:27D-511; and

Reorganization Plan No. 002-1998.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2011-235.

Submit written comments by January 6, 2012 to:

Amy Fenwick Frank

Division of Codes and Standards

PO Box 802

Trenton, New Jersey 08625

Fax No. (609) 633-6729

The agency proposal follows:

Summary

The proposed amendments would (1) amend the current Certified Employee Training Program (CETP) certification requirements for LP-Gas companies that do service work, (2) require that a leak test be performed when there is a change of LP-Gas supplier or container and (3) extend the period of time that suppliers have to ensure that DOT cylinders used in stationary service are in compliance with DOT requalification requirements.

The proposed amendments to N.J.A.C. 5:18-1.3(e)3i would remove an exception that allows employees of an LP-Gas marketer to perform LP-Gas service work on containers and appliances so long as at least one person on the marketer's staff holds a Propane Service Certification. P.L. 2007, c. 150, the Propane Gas Customer Protection Act, requires that those performing propane services be trained to do so safely. The regulation being amended allowed employees of a licensed marketer to service appliances and install containers without a separate CETP certification because it was believed that the current rules for marketers were sufficient to ensure that only qualified employees would perform the work. Under the marketer's license, the LP-Gas company is responsible for ensuring that employees only perform work for which they are qualified. However, in an effort to ensure that all people servicing LP-Gas appliances and containers have an equal level of training, the Department is proposing that the exception be removed. The result of the proposed amendments to N.J.A.C. 5:18 – 1.3(e)3i and 10.3(b) would be that anyone servicing LP-Gas appliances or containers would have to obtain a Propane Service Certification, whether employed by a marketer or not.

In addition, the proposed amendment at new N.J.A.C. 5:18-1.3(m) would establish a requirement that when there is a change of LP-Gas marketers or where there is a replacement of a container, a leak test must be performed by the new marketer. The purpose of the proposed amendment is to ensure that the system is safe after the container is replaced and to avoid arguments about the responsibility and liability for leaks and subsequent damage that might occur if the installation was not performed properly. The results would be required to be documented and would be checked by the Department during the triennial audit prescribed in the rules, or at any other time when the Department requires the records to be reviewed.

Finally, the proposed amendment to N.J.A.C. 5:18-3.1(a)4ii would extend the date for compliance with section 5.2.3 of NFPA 58 from January 1, 2011 to July 1, 2014. Section 5.2.3 of NFPA 58 requires the requalification of all DOT propane cylinders that are used in stationary service. This means that existing cylinders that are filled on site at homes, offices and other commercial and residential locations are required to be periodically inspected to ensure that they are in a condition that is suitable for continued use. Cylinders can be requalified by doing a visual inspection at five-year intervals, a hydrostatic test at seven-year intervals or a full hydrostatic test that measures displacement at 12-year intervals. When the rule was proposed, it was anticipated that most marketers would elect to do the visual test. A four-year phase in time for the rule was selected accordingly.

In the period since the rule was adopted in 2007, the vast majority of marketers have elected to have their containers re-qualified by performing a full hydrostatic test. This test requires significantly more time to perform than a visual inspection. Because of

this, the phase in time in the present rule is not sufficient for marketers to comply with the rule. Therefore, the Department is proposing that the phase in period be extended to July 1, 2014. Because the difficulty in complying with the deadline only affects existing tanks, the proposed amendment to N.J.A.C. 5:18-3.1(a)4ii would require that new installations of DOT containers comply with the requalification requirements.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

By requiring all employees of LP-Gas marketers to have appropriate CETP certification, the proposed amendments to N.J.A.C. 5:18-1.3(e)3i and at N.J.A.C. 5:18-10.3(b) would ensure that there are consistent qualifications for those that are working on LP-Gas systems. This would further ensure the public that only qualified people do service work on LP-Gas systems.

The required leak check when suppliers or containers are changed is intended to provide assurance both to the LP-Gas supplier and to the customer that the integrity of the piping system has been maintained during the change of suppliers. It is already common practice for marketers to perform a test when they service a new customer. Requiring all suppliers to perform such test would provide an added level of safety for all customers.

The extension of the date for requalifying DOT cylinders will allow marketers to comply with the rules. The hydrostatic test that the marketers are electing to perform is a more qualitative test than a visual inspection which is somewhat subjective. Therefore,

extending the period of time to allow marketers to perform this more rigorous test is in the public's best interest.

Economic Impact

The requirement to leak test systems whenever there is a change of supplier or container would impose an additional cost to any marketers who do not currently perform such tests when they accept a new customer. The inspection takes between one to two hours and does not require expensive testing equipment (generally just a test block, hoses and an appropriate gauge). The cost of such an inspection is primarily labor, and would amount to about \$150.00 to \$200.00 per test. Recording the information is included in the time estimate. There will be additional administrative costs associated with documenting the results, such as the cost of forms, data entry time and filing time. It is estimated that these administrative functions may add another \$10.00 to \$15.00 per test.

The costs associated with training for LP-Gas service work (N.J.A.C. 5:18 – 1.3(e)3i) are as follows. There are two levels of certification associated with propane service work. One certification is for appliance service and installation. The appliance installation and service certification requires Certified Employee Training Program Book 1 (Basic Principles and Practices) as well as Book 6 (Appliance Installation) and Book 7 (Appliance Service). The cost for the Book 1 course is \$260.00, the cost for the Book 6 is \$360.00, and the cost for the Book 7 course is \$360.00. The second certification is for container installation and service. It requires Book 1 (Basic Principles and Practices) and part 4.2 of Book 4 (Distribution Systems). The cost for Basic Principles and Practices training is \$260.00, and the cost for part 4.2 training is \$360.00. It should be noted that

the Basic Principles and Practices training only has to be taken once for both certifications.

The proposed amendment that would extend the time to requalify DOT containers would have a positive economic impact on LP-Gas marketers and their customers by allowing marketers to defer the cost of having their containers hydrostatically tested over a longer period of time thus reducing their annual cost to comply with the rule. In that these costs will likely be passed on to consumers, the proposed amendments would benefit them as well.

Federal Standards Statement

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

Jobs Impact

The Department does not anticipate that the proposed amendments would result in the creation or loss of any jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendments would impact the agriculture industry.

Regulatory Flexibility Analysis

A significant portion of the 43 currently licensed LP-Gas companies would qualify as small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments would establish additional testing

as well as additional training certifications for LP-Gas marketers. The leak testing requirement in the rules is meant to help ensure the integrity of the LP-Gas system when suppliers are switched. In that it is aimed at protecting the consumer, it would not make sense to establish a separate requirement based on business size. In addition, under the proposed amendments, marketers would be required to keep a record of leak tests performed prior to servicing new customers. The recordkeeping would not require professional services and can be recorded using existing forms and procedures that are in place for completing customer service calls.

The proposed amendments also would require that those employees who engage in service work be appropriately certified. The intent of the proposed amendment is to ensure that all people who perform service work, hold an appropriate Certified Employee Training Program certificate for the task they are performing. This is to ensure that they are competent to perform service work; therefore, no differentiation based on business size is appropriate.

The proposed amendments would impose compliance requirements upon propane marketers that are necessary for purposes of public safety, and which therefore cannot be modified based upon the size or form of organization of the marketer.

Smart Growth Impact

The proposed amendments would have no impact upon either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact Analysis

Inasmuch as the proposed amendments only concern qualifications for contractors who perform LP-Gas service work and the requirement to pressure test LP-

Gas systems when suppliers or containers are changed, there is an extreme unlikelihood that they would have any effect upon housing production costs or affect housing affordability .

Smart Growth Development Impact Analysis

Inasmuch as the proposed amendments only concern qualifications for contractors who perform LP-Gas service work and the requirement to pressure test LP-Gas systems when suppliers or containers are changed, there is an extreme unlikelihood that they would evoke a change in housing production within Planning Areas 1 and 2 or within designated centers under the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

5:18–1.3 Compliance

(a) – (d) (No change.)

(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. – 2. (No change.)

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] **Employees of a propane** gas marketer[s] 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] **may submit proof of completion of the required CETP training program as part of an application for, renewal of or amendment to their LP-Gas marketer license in lieu of the application required in this section.**

4. (No change.)

(f) – (l) (No change.)

(m) When a customer changes LP-Gas marketers, or there is any change in container, a test for leak tightness shall be performed by the marketer supplying LP-Gas after the change. The results shall be documented and be made available upon request for review by the Department.

[(m)] **(n)** (No change in text.)

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. – 3. (No change.)

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

i. (No change.)

ii. Section 5.2.3 is amended to add the phrase “After [January 1, 2011] **July 1, 2014,**” before the words “DOT cylinders in stationary service” on the first line[.], **and to add the following sentence to the end of the section: “Any newly installed DOT container must meet the requalification requirements of this section at the time of installation.”**

iii. – viii. (No change.)

5. – 10. (No change.)

(b) (No change .)

5:18–10.3 Employee certification

(a) (No change.)

(b) Any employee of an LP-Gas marketer who is to engage in propane service work as described in N.J.A.C. 5:18–1.3(e) shall obtain a Propane Service Certification required by that subsection prior to commencing propane service work.

[(b)] (c) (No change in text.)