

Chapter 421: SAFETY AND OPERATION STANDARDS FOR LIQUEFIED PETROLEUM GAS (LPG) DISTRIBUTION SYSTEMS

SUMMARY: This Rule establishes safety and operation requirements and enforcement procedures for Liquefied Petroleum Gas Distribution Systems.

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SAFETY AND OPERATION STANDARDS FOR LIQUEFIED PETROLEUM GAS (LPG) DISTRIBUTION SYSTEMS

§1 General Provisions

- A. Scope. This rule describes the requirements for the installation, maintenance, reporting of incidents, and safety related conditions of LPG pipeline facilities. This Chapter applies to any LPG pipeline facility that distributes LPG, including propane pipelines that transport petroleum gas or petroleum gas/air mixtures from one or more LPG systems transporting gas, a portion of which is within the same property to:
1. Ten or more customers; or
 2. Two or more customers, if any portion of the system is located in a public place; or
 3. One customer, if the system is not located entirely on the customers premises and a portion of the system is in a public place.
- B. Applicable Codes.
1. The minimum standards governing the design, fabrication, installation, inspection, reporting, testing, and the safety aspects of operation and maintenance of Liquefied Petroleum Gas (LPG) distribution systems, including propane storage tanks, vaporizers, mains, and service lines up to the outlet of the customer's meter set assembly or at the connection to a customer's piping, whichever is further downstream, shall be the provisions of Parts 191 and 192 and 199 of Title 49 of the Code of Federal Regulations (CFR), including all amendments and revisions thereto.
 - a. In the application of LPG distribution safety rules within Maine, the 2004 edition of NFPA 58, *LP-Gas Code* is adopted by reference for the enforcing of the provisions of 49 CFR § 192.11, except that the following sections of NFPA 58, 2004 are not adopted:
 - i. 6.6.7 *Installation of Containers on Roofs of Buildings*; and
 - ii. Chapter 14 *Operations and Maintenance*, with the exception of 14.3.3 *Maintenance of Fire Protection Equipment*, which is adopted.
 2. Installation of LPG supply containers on the roofs of buildings within pipeline systems in Maine is prohibited. Requirements for the preparation and revision of LPG systems operation and maintenance plans for gas pipelines within the State of Maine shall be in accordance with the provisions of 49 CFR § 192.605.

3. The minimum standards governing the drug testing inspection of LPG operations shall be the provisions of Title 49 of the CFR Part 199, which incorporates Part 40 of Title 49 by reference.
4. Where this Chapter 421 conflicts with 49 CFR Part 192, Chapter 421 shall prevail.

C. LPG Operator Designation.

1. Every jurisdictional LPG system operating in the State of Maine must be registered with the Maine Public Utilities Commission no later than 30 days after this rule goes into effect or the operation of the system begins. A qualified LPG operator of record must be designated on the registration notice.
2. If for any reason an LPG operator ceases to be the LPG operator of record for a jurisdictional LPG system, that operator shall submit an updated registration stating they are no longer the LPG operator of record. The previous LPG operator shall provide all LPG pipeline system maps, and operating and maintenance records to the owner of the system at the time of any change in the LPG operator of record.
3. LPG operator shall retain copies of all LPG pipeline system maps, and operating and maintenance records regarding jurisdictional LPG systems for which it ceases to be the LPG operator of record for a period of five years.
4. Failure to register a jurisdictional LPG system or report change of designation in accordance with this section may result in a penalty in an amount not to exceed \$5,000.

§2 Definitions. For the purposes of this Chapter, the following terms have the following meanings.

- A. Combustible Material. “Combustible Materials” are materials which, if ignited, can burn at a temperature and for a period of time that could cause damage to an LPG container or distribution system. These include but are not limited to, fuels, stored building materials, and dead brush. “Combustible Materials” does not include live vegetation such as grass, shrubs, living trees, and seasonal vegetation.
- B. Gas. “Gas” means petroleum gas as defined in §2 (K).
- C. Jurisdictional LPG System. “Jurisdictional LPG system” means any LPG pipeline facility that distributes LPG, including propane pipelines that transport petroleum gas or petroleum gas/air mixtures from one or more LPG systems, a portion of which is within the same property to:
 1. Ten or more customers; or
 2. Two or more customers, if any portion of the system is located in a public place; or

3. One customer, if the system is not located entirely on the customers premises and a portion of the system is in a public place.
- D. LPG. “LPG” means petroleum gas as defined in §2 (K).
- E. LPG Operator. “LPG operator (or Operator)” means a person who engages in the transportation of LPG through a jurisdictional LPG system.
- F. Petroleum Gas. “Petroleum gas” means propane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 208 psi (1434 kPa) gage at 100 °F (38 °C).

§3 Underground Facilities Damage Prevention Program

A. LPG Operator Participation.

1. Each LPG operator in Maine shall:
 - a. Comply with Maine PUC Chapter 895, Underground Facility Damage Prevention Requirements;
 - b. Maintain membership in a notification center that utilizes and promotes the “811” one-call notification system;
 - c. Promote to excavators the “811” and “OK to Dig” notification process; and
2. Report to the Commission in accordance with Chapter 895 any damage to its underground facilities or a damage prevention incident utilizing MPUC Underground Facility Incident Report form, such incidents including when an Excavator fails to contact the LPG Operator or the one-call notification system.

B. Pipeline Facility Locator Training and Qualification.

1. Each LPG operator shall maintain documentation that each person utilized to locate the operator’s pipeline facilities, whether the person is an employee of the operator or is an employee of a contractor retained by the operator, is properly trained and qualified. Such documentation shall indicate the latest date the person completed or demonstrated:
 - a. The necessary knowledge and skills needed to use industry best practices developed by the Common Ground Alliance for locating and marking pipelines;
 - b. Knowledge of state and local underground damage prevention regulations.

C. System Maps. Each LPG operator shall have on file at its local office a map(s) or drawings showing:

1. The LPG distribution system, including but not limited to, the size, character, and location of supply container(s), regulators, mains including valves, and service lines; and
2. The size and location of each service line provided that, in lieu of showing service locations on maps, a card record or other suitable means may be used.
3. LPG operators shall provide global position satellite (GPS) coordinate identifiers for the location of all facilities on its system maps and/or drawings

D. Location of Underground Facilities Where Trenchless Technology Is Used.

LPG operators shall physically locate existing underground facilities that are located within 3 feet of the area where trenchless technology is utilized to place gas lines during any new construction, repair, or replacement project. "Physical locate" as used in this section means exposing the existing underground facilities by hand-digging and/or vacuum excavation in addition to locating and marking along the ground.

§4 Jurisdictional System Installation and Maintenance Standards.

A. Installation and Maintenance of Meters, Pressure Regulators and Service Entrance Piping.

1. Protection of Meters, Service Entrance Piping, Above Ground Tanks and Distribution System Facilities from Damage from Motorized Vehicles or Equipment.

Gas meters, service entrance piping, aboveground tanks and distribution system facilities located adjacent to a roadway, street, alley, driveway, easement or otherwise susceptible to damage from motor vehicles shall be provided protective barriers on each side exposed to vehicular traffic.

2. Protection of Meters, Service Entrance Piping, LPG Tanks and Distribution System Facilities from Snow and Ice Damage.

- a. Regulators, meters, and other equipment installed in the piping system shall be protected from the forces anticipated as a result of accumulated snow or falling snow and/or ice by one or more of the following methods:
 - i. Locating the meter, regulator, and service entrance piping on the gable end of the building where possible;
 - ii. Securely mounting piping system components above the anticipated height of snow and/or ice that could slide off the building;
 - iii. Providing substantial protective covering to effectively withstand the dynamic forces produced by falling snow and/or ice.
- b. Where snow can be expected to cover LP-gas tanks, the following additional requirements shall apply:

C. Directional Boring Operations. Each LPG operator shall:

1. Develop written procedures for conducting and monitoring directional boring activities for the installation of gas pipeline facilities prior to engaging in directional boring;
2. Train its operating personnel including locators in the specific requirements and hazards associated with directional bores.

D. Marking of Containers.

1. All LPG operator-owned containers, aboveground or underground, installed at consumer locations shall be marked in a legible manner with the name and telephone number of the owner by decal, tag, stencil, or similar marking.
2. Containers gained through acquisition shall be marked as soon as possible, but no later than 30 days after acquisition.

§5 Documentation Requirements

A. Preservation of Records.

1. All records required by these rules shall be preserved by the LPG operator for 5 years after the LPG Operator ceases to operate the LPG system unless otherwise designated by the Commission's rules governing the preservation of records.
2. The LPG operator shall make such records available to the Commission or its staff upon request at the LPG operator's local office.

B. LPG Operator Documentation of Gas Odorization.

1. All LPG delivered by distribution system to customers shall be odorized by the addition of a warning agent of such character that the gases are detectable, by a distinct odor, to a concentration in air of not over one-fifth the lower limit of flammability.
2. The presence of odorant shall be determined by sniff-testing or other means and the results documented when shipments of LPG are delivered to the distribution system storage container(s).

§6 Enforcement procedures

Enforcement Action Procedure. The Commission shall use the following process when it initiates an enforcement action:

A. Informal Disposition of Probable Violation

When an evaluation of an operator's records and facilities indicates that the operator is apparently violating this chapter, a staff member designated by the Commission will informally discuss the probable violation with the operator before concluding the inspection. Any documentation or physical evidence necessary to support a future allegation of non-compliance may be obtained during the inspection. On-site corrective action may be taken by the operator of the facilities where the probable violation exists, thus correcting the violation without further action.

B. Written Formal Notice of Probable Violation

After evidence of a probable violation is collected and the violation report written, the operator will be notified of the results of the on-site evaluation and the provision of this chapter the operator is apparently violating. The notice of probable violation may include a proposed administrative penalty amount. A written response from the operator must be filed with the Commission within 10 days of the time the operator receives the violation notice.

C. Response Options Open to Operator

The operator, in responding to the violation notice, may:

1. Submit a written plan specifying actions that the operator will take to correct the violation, a schedule for completion of each action step, and a final date of compliance. If the Commission accepts the corrective plan submitted by the operator and the operator implements the corrective actions, the violation is resolved.
2. Request an informal conference. Upon request for an informal conference, a staff member designated by the Commission will establish a date, time, and location for the conference. During the conference, staff will review the violation report with the operator to identify corrective actions and reach a mutually acceptable resolution of the violation and proposed administrative penalty, if any. If this effort fails, the designated staff member may refer the violation to the Commission for formal action.

D. Commission Action

1. If the violation is referred to the Commission for formal resolution, the Commission may take the following actions:
 - a. The Commission may seek injunctive relief in the Superior Court pursuant to 35-A M.R.S.A. § 4515 or 4704;
 - b. The Commission may issue a show cause order and schedule a hearing requiring the operator to show why the operator should not be subject to the penalties set forth in 35-A M.R.S.A. § 4516-A or 4705-A.
 - c. The Commission may, after investigation and a formal public

hearing pursuant to 35-A M.R.S.A. § 1303, order an operator to take corrective action.

A. Hazardous Facility Orders.

1. If the Commission finds a pipeline facility is hazardous to life or property, the Commission may issue an order requiring the operator to take immediate corrective action, which may include:
 - a. Suspended or restricted use of the facility;
 - b. Physical inspection;
 - c. Testing;
 - d. Repair;
 - e. Replacement; or
 - f. Other action.
2. The Commission shall give the operator written notice and an opportunity for a hearing before issuance of a hazardous facility order unless the Commission determines there is a serious and imminent threat to life or property. If the order is issued without a prior hearing, the operator shall be given written notice and an opportunity for a hearing as soon after the order is issued as possible. Any such hearing shall be recorded and a member of the Commission's legal staff shall act as hearing examiner.
3. The operator may appeal the decision of the hearing examiner to the Commission within 5 business days following the decision. After receipt of the notice of appeal, the Commission may investigate pursuant to 35-A M.R.S.A. § 1303 and hold a formal public hearing on the matter within a reasonable time. If the Commission does not issue an order commencing an investigation within 20 days following the filing of the appeal, the appeal is automatically denied. If the Commission denies the appeal, the decision of the hearing examiner is deemed a final decision of the Commission. If the Commission does hold a public hearing, it shall determine the matter de novo and may affirm, revise or modify the decision of the hearing examiner and substitute its own decision therefore.

§7 Federal Regulation Waivers

Upon the request of any person subject to this Chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this Chapter that is not required by federal regulation or state or federal statute. The Commission or the Presiding Officer may grant the waiver.

- A. Upon application by an operator, the Commission may grant a waiver from compliance with the federal Gas Pipeline Safety Regulations for intrastate pipeline transportation, subject to review by the office of Pipeline Safety Regulation.
 1. Waivers may be granted for particular circumstances where it is inappropriate for an operator to follow a regulation of general applicability.

- a. Before granting a waiver, the Commission must give notice and opportunity for written comments and hearing, unless the Commission finds that notice is impracticable, unnecessary, or not in the public interest.
- b. If the Commission finds a requested waiver is consistent with gas pipeline safety and is otherwise justified, the waiver must be issued under appropriate terms and conditions with a statement of reasons for granting the waiver.
- c. If the Commission finds a requested waiver is inconsistent with gas pipeline safety or is otherwise unjustified, the request must be denied, and the applicant notified of the reasons for denial.
- d. The Commission must give the office of Pipeline Safety Regulation of the United States Department of Transportation written notice of each waiver at least 60 days before it becomes effective. Each notice of waiver must provide the following information:
 - i. The name, address, and telephone number of the applicant;
 - ii. The safety standards involved;
 - iii. A description of the pipeline facilities involved;
 - iv. The justification for the waiver, including the reasons why the standards are not appropriate and why the waiver is consistent with gas pipeline safety.

STATUTORY AUTHORITY: 35-A M.R.S.A. §§ 111 and 4508

EFFECTIVE DATE: 6/19/10