

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 3035

By: Bengé

6
7 COMMITTEE SUBSTITUTE

8 [state government - transferring all powers and
9 duties of the Oklahoma Liquefied Petroleum Gas
10 Board to the Corporation Commission - transferring
11 certain powers and duties of the Liquefied
12 Petroleum Gas Research, Marketing and Safety
13 Commission to the Corporation Commission -
14 clarifying statutory language - deleting obsolete
15 language - changing the name of the Oklahoma
16 Liquefied Petroleum Gas Research, Marketing and
17 Safety Act - codification - effective date -
18 emergency]

19
20
21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 420.18 of Title 52, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Effective July 1, 2010, all powers, duties, functions and
2 responsibilities of the Oklahoma Liquefied Petroleum Gas Board shall
3 be transferred to the Corporation Commission. Except as otherwise
4 provided for in this section, the transfer shall include all real
5 property, buildings, furniture, equipment, supplies, records,
6 personnel, assets, current and future liabilities, fund balances,
7 encumbrances, obligations and indebtedness associated with the
8 Oklahoma Liquefied Petroleum Gas Board.

9 B. The position of the Oklahoma Liquefied Petroleum Gas Board
10 Administrator and not more than five employees of the Oklahoma
11 Liquefied Petroleum Gas Board who are employed as safety code
12 enforcement officers, including related liabilities for sick leave,
13 annual leave, holidays, unemployment benefits, and workers'
14 compensation benefits accruing prior to July 1, 2010, to such
15 employees, shall be transferred to the Corporation Commission as of
16 July 1, 2010. It is the intent of the Legislature that, to the
17 extent possible, the Corporation Commission ensure that the
18 employees retain pay and benefits, as much as possible, including
19 longevity, dependent insurance benefits, seniority, rights and other
20 privileges or benefits.

21 C. Appropriate conveyances and other documents shall be
22 executed by January 1, 2011, to effectuate the transfer of any
23 property owned by the Oklahoma Liquefied Petroleum Gas Board to the
24 Corporation Commission.

1 D. Any monies from appropriations, fees, licenses, fines,
2 penalties, or other similar types of monies that accrue in any funds
3 or accounts after July 1, 2010, in the name of the Oklahoma
4 Liquefied Petroleum Gas Board are transferred to the Corporation
5 Commission.

6 E. The Corporation Commission shall succeed to any contractual
7 rights and responsibilities incurred by the Oklahoma Liquefied
8 Petroleum Gas Board.

9 F. The rules of the Oklahoma Liquefied Petroleum Gas Board
10 relating to the regulations, operating standards, fees, licenses,
11 and other like matters, that are in effect on July 1, 2010, shall be
12 enforceable by the Corporation Commission until the Commission
13 establishes rules.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 420.19 of Title 52, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Effective July 1, 2010, all powers, duties, functions and
18 responsibilities of the Liquefied Petroleum Gas Research, Marketing
19 and Safety Commission relating to the promotion of safety of the
20 liquefied petroleum gas industry shall be transferred to the
21 Corporation Commission. Except as otherwise provided for in this
22 section, the transfer shall include all real property, buildings,
23 furniture, equipment, supplies, records, assets, current and future
24 liabilities, fund balances, encumbrances, obligations and

1 indebtedness associated with the Liquefied Petroleum Gas Research,
2 Marketing and Safety Commission.

3 B. Appropriate conveyances and other documents shall be
4 executed by January 1, 2011, to effectuate the transfer of any
5 property owned by the Liquefied Petroleum Gas Research, Marketing
6 and Safety Commission to the Corporation Commission.

7 C. Any monies from fees, fines, penalties, donations, grants,
8 contributions, or other similar types of monies that accrue in any
9 funds or accounts after July 1, 2010, in the name of the Liquefied
10 Petroleum Gas Research, Marketing and Safety Commission are
11 transferred to the Corporation Commission.

12 D. The Corporation Commission shall succeed to any contractual
13 rights and responsibilities relating to safety programs and
14 education incurred by the Liquefied Petroleum Gas Research,
15 Marketing and Safety Commission.

16 E. The rules of the Liquefied Petroleum Gas Research, Marketing
17 and Safety Commission relating to the promotion of safety in the
18 liquefied petroleum gas industry, that are in effect on July 1,
19 2010, shall be enforceable by the Corporation Commission until the
20 Commission establishes rules.

21 SECTION 3. AMENDATORY 52 O.S. 2001, Section 420.1, is
22 amended to read as follows:

23 Section 420.1 A. The provisions of ~~Chapter 8 of Title 52 of~~
24 ~~the Oklahoma Statutes~~ Sections 420.2 through 420.17 of this title

1 and Section 1 of this act shall be known and may be cited as the
2 "Oklahoma Liquefied Petroleum Gas Regulation Act".

3 B. For purposes of the Oklahoma Liquefied Petroleum Gas
4 Regulation Act:

5 1. "Administrator" means an employee of the Corporation
6 Commission appointed by the Commission to act as the State Liquefied
7 Petroleum Gas Administrator;

8 2. ~~"Board" means the Oklahoma Liquefied Petroleum Gas Board~~
9 "Commission" means the Corporation Commission; and

10 3. "Liquefied petroleum gases", "LPG", or "LP-Gas" means and
11 includes any material which is composed predominantly of any of the
12 following hydrocarbons, or mixtures of the same: propane, propylene,
13 normal butane and isobutane, and butylenes.

14 SECTION 4. AMENDATORY 52 O.S. 2001, Section 420.2, as
15 last amended by Section 1, Chapter 143, O.S.L. 2006 (52 O.S. Supp.
16 2009, Section 420.2), is amended to read as follows:

17 Section 420.2 A. ~~There is hereby created~~ The Corporation
18 Commission shall employ a State Liquefied Petroleum Gas
19 Administrator, ~~to be appointed by the Governor from a list of~~
20 ~~nominees submitted by the Oklahoma Liquefied Petroleum Gas Board,~~
21 ~~hereinafter created. The appointment shall be subject to~~
22 ~~confirmation by the Senate. The Administrator shall:~~

23 1. ~~Receive a salary to be established by the Oklahoma Liquefied~~
24 ~~Petroleum Gas Board,~~

1 ~~2. Act in no other official or quasi-official capacity except~~
2 ~~as herein provided; and~~

3 ~~3. Serve at the pleasure of the Governor.~~

4 ~~B. The Administrator, subject to approval of the Board, shall~~
5 ~~appoint and fix the duties and compensation of employees necessary~~
6 ~~to perform the duties imposed upon the Oklahoma Liquefied Petroleum~~
7 ~~Gas Board by law. The position shall be in the unclassified service~~
8 ~~and shall have a maximum annual salary, payable monthly, which shall~~
9 ~~be specified in the annual appropriations bill for the Commission.~~

10 ~~C. B. 1. Persons appointed to~~ employed in the positions of
11 ~~Administrator, chief deputy administrator, deputy administrator or~~
12 ~~and liquefied petroleum gas safety code enforcement officer shall:~~

- 13 a. be citizens of the United States,
- 14 b. be legal residents of this state,
- 15 c. be physically, mentally and morally capable of
16 performing the duties imposed upon them pursuant to
17 the Oklahoma Liquefied Petroleum Gas Regulation Act,
- 18 d. not have been convicted of a felony in this state or
19 any other state as established by a national criminal
20 history record check as defined in Section 150.9 of
21 Title 74 of the Oklahoma Statutes, and
- 22 e. after the date of their ~~appointment~~ employment, not be
23 engaged in any business in this state related to the
24 production, manufacture, distribution, sale,

1 installation or transportation of any of the products
2 or equipment covered by the Oklahoma Liquefied
3 Petroleum Gas Regulation Act.

4 2. Each ~~appointee~~ employee shall, by education, training and
5 experience, be qualified and competent to perform the duties imposed
6 upon them pursuant to the Oklahoma Liquefied Petroleum Gas
7 Regulation Act, which for:

8 a. the Administrator shall include at least two (2)
9 years' experience in positions of responsibility in or
10 connected with the liquefied petroleum gas industry,
11 and

12 ~~b. the chief deputy administrator and deputy~~
13 ~~administrators shall include at least one and one-half~~
14 ~~(1 1/2) years of such experience, and~~

15 ~~c.~~ the safety code enforcement officers shall include at
16 least two (2) years' experience in actual physical
17 installation or inspection of liquefied petroleum gas
18 systems, containers, apparatus or appliances, or
19 installations thereof.

20 ~~3. Before entering upon their duties, appointees shall take the~~
21 ~~constitutional oath of office.~~

22 ~~D. In the event of a vacancy in the office of Administrator, or~~
23 ~~in the event of the absence or disability of the Administrator, the~~
24 ~~chief deputy administrator is hereby empowered and authorized to~~

1 ~~perform the duties of the Administrator during the time of such~~
2 ~~vacancy, absence or disability.~~

3 C. The Commission shall cross-train all liquefied petroleum gas
4 safety code enforcement officers as motor carrier enforcement
5 officers. All motor carrier enforcement officers shall also receive
6 training in liquefied petroleum gas inspections and in enforcing the
7 provisions of the Oklahoma Liquefied Petroleum Gas Regulation Act.

8 SECTION 5. AMENDATORY 52 O.S. 2001, Section 420.3, is
9 amended to read as follows:

10 Section 420.3 A. ~~There is hereby re-created the Oklahoma~~
11 ~~Liquefied Petroleum Gas Board, hereinafter sometimes referred to as~~
12 ~~"LP Gas Board" or "Board". The Board shall be composed of seven (7)~~
13 ~~members, one each from the southeastern, northeastern, northwestern~~
14 ~~and southwestern quarters of the state, one from central Oklahoma,~~
15 ~~and two from the state at large. Each such appointment shall be~~
16 ~~made by the Governor, from a list of three or more nominees who have~~
17 ~~certified in writing their willingness to serve, to be submitted to~~
18 ~~him by the persons, firms or corporations required to be registered~~
19 ~~pursuant to the provisions of Sections 420.1 through 420.15 of this~~
20 ~~title, or by their representatives, and shall be subject to~~
21 ~~confirmation by the Senate.~~

22 B. ~~No person shall be appointed as a member of the Board unless~~
23 ~~at the time of his appointment he or she has been a legal resident~~
24 ~~of the State of Oklahoma for at least five (5) years next preceding~~

1 ~~the date of his or her appointment and, except for the two members~~
2 ~~at large, shall have actively engaged in the retail distribution of~~
3 ~~liquefied petroleum gas in Oklahoma for a period of one (1) year, or~~
4 ~~more. One of the members at large shall be engaged in and~~
5 ~~representative of the container and appliance phases of the LPG~~
6 ~~business in Oklahoma, and the other shall have a general familiarity~~
7 ~~with the regulatory problems of the industry and the consuming~~
8 ~~public. Provided, however, that the appointment of such public~~
9 ~~member shall not be subject to the aforementioned list which is~~
10 ~~required to be submitted to the Governor. Members shall be eligible~~
11 ~~for reappointment for successive terms, and shall be removable for~~
12 ~~cause by the Governor. A member shall automatically be disqualified~~
13 ~~to hold such office in event he or she ceases to be a legal resident~~
14 ~~of the State of Oklahoma or ceases to be actively engaged in the~~
15 ~~liquefied petroleum gas business in Oklahoma.~~

16 ~~C. Re creation shall not alter existing membership or terms of~~
17 ~~office. Members shall serve until their successors in office are~~
18 ~~duly appointed and qualified. Initial appointments of those members~~
19 ~~of the Board from the designated geographical areas of the state~~
20 ~~shall be for terms ranging from one (1) to five (5) years, the~~
21 ~~Governor to designate same, and the initial terms of office of the~~
22 ~~members at large on said Board shall be for one (1) and two (2)~~
23 ~~years, respectively, as designated by the Governor. Thereafter, the~~
24 ~~terms of all members shall be for four (4) years. In the event of~~

1 ~~the death, resignation, disqualification or incapacity of one or~~
2 ~~more members of said Board, a recess appointment for the unexpired~~
3 ~~term of each such member may be made by the Governor as hereinabove~~
4 ~~provided. Members of the Board shall be entitled to be reimbursed~~
5 ~~for necessary travel expenses as provided in the State Travel~~
6 ~~Reimbursement Act.~~

7 D. ~~The Board shall organize by electing one of its members as~~
8 ~~chairman and one member as vice chairman. The Board shall hold~~
9 ~~regular meetings. The date, time and place of any regular meeting~~
10 ~~shall be as designated by vote of the majority of the membership.~~
11 ~~Four members of said Board shall constitute a quorum for all~~
12 ~~purposes. The chairman or vice chairman may, upon approval of a~~
13 ~~majority of the members present and voting at any meeting, designate~~
14 ~~the time, place and date of any scheduled special meeting, and the~~
15 ~~chairman or vice chairman shall have the power to call an~~
16 ~~unscheduled special meeting of the Board upon not less than five (5)~~
17 ~~days' notice in writing to each member thereof.~~

18 E. The standards for the storage and handling of liquefied
19 petroleum gases adopted by the National Fire Protection Association
20 and published in Pamphlet No. 58 including current and subsequent
21 editions and any subsequent changes ~~and/or~~ or additions to the
22 pamphlet, and the standards for the installation of gas appliances
23 and gas piping adopted by the National Fire Protection Association
24 and published in Pamphlet No. 54 including the current and any

1 subsequent editions and any subsequent changes ~~and/or~~ or additions
2 to the pamphlet shall be the accepted standards for this state. The
3 ~~said Board is hereby empowered and authorized, and it shall be its~~
4 ~~duty to prescribe, adopt and~~ Corporation Commission shall
5 ~~promulgate, in the manner set forth in Section 420.1 et seq. of this~~
6 ~~title,~~ rules relating to safety in the storage, distribution,
7 dispensing, transporting and utilization of LPG in this state ~~and~~
8 ~~in,~~ the manufacture, fabrication, assembly, sale, installation,
9 operation or use ~~in this state~~ of LPG systems, containers, apparatus
10 or appliances, ~~and reasonable rules governing~~ in this state, the
11 issuance of such permits ~~and operations thereunder, and not~~
12 ~~inconsistent with this act, as it shall deem just and reasonable,~~
13 ~~and to revoke, amend or supersede such supplementary rules,~~ and any
14 other rules deemed necessary to implement the Oklahoma Liquefied
15 Petroleum Gas Regulation Act.

16 F. B. The Administrator shall administer and enforce all
17 administrative rules ~~formulated and adopted by the Board and~~
18 ~~administer and enforce the safety rules prescribed, adopted or~~
19 ~~promulgated by said Board under and by virtue of the provisions of~~
20 ~~this act, and incur all necessary expenditures in effectuating the~~
21 ~~purposes of this subsection. The Administrator shall serve as~~
22 ~~secretary to said Board, and shall be subject to confirmation by the~~
23 ~~Senate~~ the Commission.

24

1 ~~G. C.~~ Before any rules are revised, amended, adopted or
2 promulgated hereunder, ~~the Administrator, acting on behalf of said~~
3 ~~Board,~~ to implement the provisions of the Oklahoma Liquefied
4 Petroleum Gas Regulation Act, the Commission shall give ten (10)
5 days' notice to all Class I and Class II permit holders under the
6 act, by mailing to the permit holders a written notice, signed by
7 the Administrator, on behalf of the ~~Board~~ Commission, containing
8 either a statement of the terms or substance of the intended action,
9 a description of the subjects and issues involved, or an accurate
10 copy of the new, revised or amended rules which the ~~Board~~ Commission
11 proposes to adopt ~~and promulgate~~, stating the date, time and place
12 of a public hearing at which oral or written objections to ~~such~~
13 ~~proposals~~ the rules shall be heard and considered. Notice shall
14 also be given as required by the Administrative Procedures Act.
15 Nothing in this subsection shall prevent the furnishing of ~~such~~ any
16 other or additional notice as the ~~Board~~ Commission shall direct.

17 ~~H. At any hearing held under this section, not less than a~~
18 ~~quorum of said Board shall be present and shall preside; provided,~~
19 ~~however, that by unanimous vote and resolution the Board may~~
20 ~~authorize the Administrator to preside at any or all such hearings,~~
21 ~~and in such event no Board member need be present. After any such~~
22 ~~hearing the Board may, by majority vote, adopt any proposed new,~~
23 ~~revised or amended rules with such amendments and modifications~~
24 ~~thereof as the said Board shall deem just and reasonable, and a~~

1 ~~certificate reciting such adoption and the effective date thereof~~
2 ~~shall be signed by the members comprising said majority of said~~
3 ~~Board. The Administrator shall thereafter, within ten (10) days,~~
4 ~~cause such rules so adopted to be mailed to each Class I and Class~~
5 ~~II permit holder under this act.~~

6 SECTION 6. AMENDATORY 52 O.S. 2001, Section 420.3A, as
7 amended by Section 2, Chapter 143, O.S.L. 2006 (52 O.S. Supp. 2009,
8 Section 420.3A), is amended to read as follows:

9 Section 420.3A A. A person is not liable for damages and no
10 legal action shall be commenced or maintained against ~~such~~ any
11 person engaged in this state in the business of selling at retail,
12 supplying, handling, or transporting liquefied petroleum gas if the
13 alleged injury, damage, or loss was caused by:

14 1. The alteration, modification, or repair of liquefied
15 petroleum gas equipment, containers, or a liquefied petroleum gas
16 appliance if the alteration, modification, or repair was done
17 without the knowledge and consent of the liquefied petroleum gas
18 seller, supplier, handler, or transporter; and

19 2. The liquefied petroleum gas equipment, containers, or a
20 liquefied petroleum gas appliance being used in a manner or for a
21 purpose other than that for which the equipment or appliance was
22 intended.

23 B. This section shall apply only to a person who complies with
24 the approved standards and rules as outlined in ~~subsection E of~~

1 Section 420.3 of this title and who has not acted in a grossly
2 negligent or willful and wanton manner.

3 SECTION 7. AMENDATORY 52 O.S. 2001, Section 420.4, as
4 last amended by Section 3, Chapter 143, O.S.L. 2006 (52 O.S. Supp.
5 2009, Section 420.4), is amended to read as follows:

6 Section 420.4 A. No person, firm, or corporation shall
7 manufacture, fabricate, assemble, or install in this state any
8 system, container, apparatus, or appliance used or to be used in
9 this state in or for the transportation, storage, dispensing, or
10 utilization of LPG, nor shall any transporter, distributor, or
11 retailer of LPG store, dispense or transport over the highways of
12 this state any LPG intended for use in this state in any ~~such~~
13 system, container, apparatus, or appliance, without having first
14 applied for and obtained a registration permit to do so. A permit
15 shall not be required by any person, firm, or corporation engaged in
16 the production or manufacture of LPG, or selling or reselling LPG to
17 transporters, processors, distributors, or retailers, nor by any
18 person, firm, or corporation selling or delivering motor vehicles or
19 tractors which are factory equipped with an LPG system, container,
20 apparatus, or appliance for the utilization of LPG as motor fuel.
21 The provisions of this section shall not prevent an individual from
22 installing in ~~his own~~ a single-unit residence owned by the person
23 any system, container, apparatus, or appliance which uses or will
24 utilize LPG, provided, that ~~such~~ the individual has secured an

1 inspection of ~~such~~ the installation by the Administrator or someone
2 designated by the Administrator or by a person duly licensed to make
3 ~~such~~ an installation prior to the use of ~~said~~ the system, container,
4 apparatus or appliance. Applications for registration permits shall
5 be in writing, on a form provided by the ~~Board~~ Corporation
6 Commission, and shall contain ~~such~~ all pertinent information as is
7 required by the ~~Board~~ Commission. Upon approval of each ~~said~~
8 application and receipt of the certificates of insurance or
9 securities required by the provisions of this section, the
10 ~~Administrator~~ Commission shall issue to the applicant a permit to
11 engage in the phase of the liquefied petroleum gas industry in this
12 state to which ~~such~~ the permit applies. No permit other than the
13 Class I Dealer Permit shall be transferable. The ~~Board~~ Commission
14 is authorized to establish a fee for the transfer of a Class I
15 Permit. Nothing in ~~Sections 420.1 through 420.15 of this title~~ the
16 Oklahoma Liquefied Petroleum Gas Regulation Act shall be construed
17 to regulate the manufacturing, fabrication, assembling, selling, or
18 installing of any system, container, apparatus, or appliance having
19 a fuel container with a maximum individual water capacity of less
20 than two and one-half (2 1/2) pounds.

21 B. 1. The ~~Board~~ Commission is authorized to establish an
22 annual permit fee for the issuance of each class of permit listed in
23 subsection C of this section.

24

1 2. All ~~such~~ registration permits shall expire annually with no
2 permit extending longer than one (1) calendar year. The expiration
3 dates shall be set by the ~~Board~~ Commission in the rules. The
4 ~~Administrator~~ Commission may issue a semiannual permit to applicants
5 engaging in the business within six (6) months or less of the annual
6 renewal date. A semiannual permit shall expire on the following
7 annual expiration date. The fee for a semiannual permit shall be
8 one-half (1/2) that of the fee of the annual permit. All
9 registration permits required pursuant to the provisions of this
10 section shall be renewed upon payment of the annual fees on or
11 before the expiration of the registration permit, and upon
12 fulfilling all insurance requirements. The ~~Board~~ Commission is
13 authorized to establish necessary penalty provisions required to
14 ensure prompt payment of ~~said~~ the annual fees.

15 3. The ~~Board~~ Commission is authorized to establish
16 specifications which set forth the scope of authority for each class
17 of permits.

18 4. The ~~Board~~ Commission is authorized to establish an initial
19 permit fee for the issuance of Class I and Class II permits to any
20 person, firm or corporation for the first time.

21 C. Persons, firms, and corporations required to be registered
22 pursuant to the provisions of ~~Sections 420.1 through 420.15 of this~~
23 ~~title~~ this act, at the time of issuance of each permit, shall pay to
24 the ~~Administrator~~ Commission the initial permit fee if applicable

1 and any annual fee that is applicable to the following permit
2 classes:

- 3 1. Class I - Dealer Permit;
- 4 2. Class II - Truck Transporter Permit;
- 5 3. Class III - DOT Cylinder Transporter Permit;
- 6 4. Class IV - Installer Permit;
- 7 5. Class IV-D - Driver/Installer Permit;
- 8 6. Class VI - DOT Cylinder and/or LPG Motor Fuel Station
9 Operator;
- 10 7. Class VI-A - LPG Dispensing Permit;
- 11 8. Class VII - Cylinder Exchange Program Permit;
- 12 9. Class VIII - Appliance Dealer Permit;
- 13 10. Class IX - LPG Container Sales Permit;
- 14 11. Class IX-A - Manufactured Homes and Recreation Sales
15 Permit; and
- 16 12. Class X - Manager's Permit.

17 D. 1. Each person, firm, or corporation holding a permit
18 authorizing the use of an LPG bulk delivery truck or trailer shall
19 pay at the time of inspection an annual inspection fee in an amount
20 as established by the ~~Board~~ Commission for each ~~said~~ delivery truck
21 or trailer belonging to ~~said~~ the person, firm, or corporation. Each
22 person, firm, or corporation who does not hold a permit issued by
23 the ~~Board~~ Commission authorizing the use of an LPG bulk delivery
24 truck or trailer in the state shall pay an annual inspection fee in

1 an amount as established by the ~~Board~~ Commission for each such truck
2 or trailer belonging to ~~said~~ the person, firm, or corporation being
3 used to dispense or transport LPG in the state.

4 2. The inspection fee shall increase to an amount established
5 by the ~~Board~~ Commission per vehicle if ~~said~~ the inspection is not
6 completed within sixty (60) days of the expiration date, or at a
7 later date at the discretion of the ~~Administrator~~ Commission.

8 E. Any LPG bulk delivery truck or trailer failing to be
9 approved at its annual inspection shall be assessed a fee in an
10 amount as established by the ~~Board~~ Commission at the time that it is
11 reinspected.

12 F. The fees provided for in this section shall be applicable to
13 residents and nonresidents of Oklahoma.

14 G. 1. The ~~Board~~ Commission is authorized to approve or
15 disapprove applications for registration permits to distributors and
16 retailers of LPG and managers of LPG establishments. The
17 ~~Administrator~~ Commission is authorized to approve or disapprove all
18 other applications for registration permits that may be issued
19 pursuant to the provisions of this section.

20 ~~1-~~ 2. No application shall be approved ~~by the Administrator~~
21 unless the ~~Administrator~~ Commission is satisfied that the applicant
22 by written examination has shown a working knowledge of the safety
23 requirements provided by the rules of the ~~Board~~ Commission.

1 ~~2-~~ 3. No application shall be approved ~~by the Board~~ unless the
2 ~~Board~~ Commission is satisfied by adequate written examination of the
3 applicant, or the individual who is or shall be directly responsible
4 for actively supervising the operations of ~~such~~ the applicant which
5 is a partnership, firm, or corporation, that the applicant or ~~such~~
6 the individual has a working knowledge of the safety requirements
7 provided by the rules of the ~~Board~~ Commission. The ~~Board~~ Commission
8 shall cause to be held public hearings on the second Monday in the
9 months of January, April, July, and October of each year on all
10 applications for new registration permits required by the provisions
11 of this section, or upon such other occasions as the ~~Board~~
12 Commission may deem necessary. Notice of each hearing shall be
13 mailed to each such applicant and shall be posted in a conspicuous
14 place in the Office of the Administrator in Oklahoma City, Oklahoma,
15 at least thirty (30) days prior to the date of ~~such~~ the hearing.
16 ~~Said~~ The notice shall include the name, address, permit class, and
17 business location of each applicant whose application is to be
18 considered at the hearing. ~~Such~~ The applicant, or the individual
19 who is or shall be directly responsible for and actively supervising
20 the operations of ~~such~~ the applicant, may be present at ~~such~~ the
21 hearing. If, after the public hearing, an applicant is found by the
22 ~~Board~~ Commission to have a working knowledge of the safety
23 requirements provided by the rules ~~and regulations~~ of the ~~Board~~
24 Commission, the ~~Board~~ Commission shall cause an order to that effect

1 to be entered upon its records and the application shall be
2 approved. In the event an applicant fails to qualify, ~~said~~ the fact
3 shall be entered upon the ~~Board's~~ records of the Commission.

4 3. The ~~Board~~ Commission shall charge a fee, in an amount
5 established by the ~~Board~~ Commission, for testing materials and the
6 expense of holding the examinations provided for in this section.
7 ~~Said~~ The fee shall be paid upon filing an application for any
8 permit.

9 H. A registration permit shall not be issued to any applicant
10 unless the ~~Administrator~~ Commission has received certificates of
11 insurance or security as required by this section.

12 I. Except as otherwise provided for in this section, all
13 persons, firms, or corporations engaged in the business of
14 manufacturing, fabricating, assembling, or installing any LPG
15 system, container, apparatus, or appliance in this state, and
16 required to be registered pursuant to the provisions of ~~Sections~~
17 ~~420.1 through 420.15 of this title~~ this act, shall file with the
18 ~~Administrator~~ Commission a certificate indicating liability
19 insurance coverage for the manufacturer and contractor. The ~~Board~~
20 Commission is authorized to establish coverage amounts for each
21 class of permit, provided coverage shall be for an amount of not
22 less than Twenty-five Thousand Dollars (\$25,000.00) to Fifty
23 Thousand Dollars (\$50,000.00) for bodily injury and limits of not
24 less than Twenty-five Thousand Dollars (\$25,000.00) for property

1 damage, and shall be in full force and effect, covering the plant,
2 equipment, and motor vehicles used in ~~such~~ the business, and the
3 operations of the business.

4 J. Except as otherwise provided for in this section, all
5 transporters, distributors, or retailers of LPG in this state,
6 required to be registered pursuant to ~~Sections 420.1 through 420.15~~
7 ~~of this title~~ this act, shall file with the ~~Administrator~~ Commission
8 a certificate indicating that public liability and property damage
9 insurance coverage has been issued. The ~~Board~~ Commission is
10 authorized to establish coverage amounts for each class of permit,
11 provided coverage shall be for an amount of not less than Twenty-
12 five Thousand Dollars (\$25,000.00) to Fifty Thousand Dollars
13 (\$50,000.00) for bodily injury and limits of not less than Twenty-
14 five Thousand Dollars (\$25,000.00) for property damage has been
15 issued, and is in full force and effect, covering the plant,
16 equipment, and motor vehicles used in ~~such~~ the business, and the
17 operations of said business.

18 K. Insurance required pursuant to the provisions of this
19 section shall be maintained in full force and effect during the
20 operation of the business for which the coverage was issued. Except
21 as otherwise provided for in this section, no registration permit
22 shall be issued until ~~said~~ the certificate of insurance is filed
23 with the Administrator. No insurance coverage shall be canceled or
24

1 terminated without thirty (30) days prior written notice of
2 cancellation or termination to the ~~Administrator~~ Commission.

3 L. The ~~Board~~ Commission is authorized, upon proof of or a
4 satisfactory showing that any person, firm, or corporation is
5 financially able to pay or satisfy any judgment, claim, or demand
6 against such person, firm, or corporation, to waive the insurance
7 coverage required by this section. The ~~Board~~ Commission, in lieu of
8 ~~said a~~ certificate, may require the deposit, ~~with the Administrator,~~
9 of securities, or satisfactory indemnity bond, in an amount and of a
10 kind designated by the ~~Board~~ Commission, to secure the liability of
11 ~~such the~~ person, firm, or corporation to pay any judgment, claim, or
12 demand. ~~Such~~ The security shall not be in excess of the limits set
13 forth in this section. If the ~~Board~~ Commission deems the financial
14 status of ~~such the~~ person, firm, or corporation to be impaired so as
15 to reduce the ability of ~~such the~~ person, firm, or corporation to
16 make payment or to satisfy any judgment, claim, or demand, the ~~Board~~
17 Commission may revoke ~~such the~~ waiver and require ~~such the~~ person,
18 firm, or corporation to file certificates required by this section
19 within thirty (30) days' after written notice is sent by the ~~Board~~
20 Commission to ~~such the~~ person, firm, or corporation.

21 SECTION 8. AMENDATORY 52 O.S. 2001, Section 420.5, as
22 last amended by Section 4, Chapter 143, O.S.L. 2006 (52 O.S. Supp.
23 2009, Section 420.5), is amended to read as follows:

24

1 Section 420.5 A. The ~~Board~~ Corporation Commission is
2 authorized to establish a fee, to be paid ~~to the Administrator,~~ upon
3 the sale, purchase, rental and/or use in this state of liquefied
4 petroleum gas refillable cylinders and all other liquefied petroleum
5 gas containers.

6 B. Each manufacturer of LP-Gas containers in Oklahoma, each
7 vendor of containers manufactured without the state, and each
8 person, firm or corporation placing any LPG container or cylinder in
9 use in this state shall pay the applicable fee. For vendors of
10 containers manufactured without this state, the fee or fees shall
11 apply and become due upon delivery to the vendors, or for their
12 account, within the state, of containers or cylinders purchased
13 without the state. In no event shall the fees ~~herein levied~~
14 required by this section be paid or become payable on any container
15 or cylinder sold, rented, purchased or placed in use in this state
16 prior to the effective date of this act, or more than once on any
17 container or cylinder, or upon any container or cylinder resold,
18 rerented, repurchased or reused in this state. The ~~Administrator~~
19 Commission is authorized to refund or credit fees upon containers
20 sold without the state upon which the fees have previously been
21 paid, or any fees which have erroneously been paid, upon written
22 application supported by affidavit setting forth the basis for ~~such~~
23 the refund. The ~~Administrator~~ Commission is authorized to adopt a
24

1 system of identification of containers on which the fees ~~herein~~
2 ~~levied~~ required by this section have been paid.

3 C. No person, firm or corporation shall use or install in this
4 state any container or cylinder upon which the applicable fee levied
5 above applies and has not been paid. In case of failure to pay
6 within the specified time, there shall be assessed a penalty of
7 twenty-five percent (25%), which shall be added to the applicable
8 fee.

9 SECTION 9. AMENDATORY 52 O.S. 2001, Section 420.6, as
10 last amended by Section 5, Chapter 143, O.S.L. 2006 (52 O.S. Supp.
11 2009, Section 420.6), is amended to read as follows:

12 Section 420.6 A. ~~The State Liquefied Petroleum Gas~~
13 ~~Administrator~~ Corporation Commission is authorized to suspend or
14 revoke any registration permit issued by the ~~Oklahoma Liquefied~~
15 ~~Petroleum Gas Board~~ Commission or impose an administrative penalty,
16 if it is found at a hearing on the matter, that the registrant has
17 violated or is violating or has failed or is failing to comply with
18 any provisions of the Oklahoma Liquefied Petroleum Gas Regulation
19 Act, any rules or specifications promulgated or any order issued
20 ~~thereto~~, or has delivered a lesser quantity of gas than the
21 registrant bills the customer for with intent to defraud.

22 B. 1. Upon the motion of the ~~Administrator~~ Commission, or upon
23 the receipt of written complaint from any ~~member of the Board, or~~
24 ~~from any deputy administrator or~~ safety code enforcement officer,

1 that a registrant has violated or is violating or has failed or is
2 failing to comply with any of the provisions of the Oklahoma
3 Liquefied Petroleum Gas Regulation Act, the rules, or specifications
4 promulgated or any order issued thereto, ~~the Administrator~~ pursuant
5 to this act, the Commission is authorized and it shall be the duty
6 of the ~~Administrator~~ Commission to hold an administrative hearing
7 pursuant to Article II of the Administrative Procedures Act to
8 consider such complaint.

9 2. The ~~Administrator~~ Commission shall have the power to:

10 (a) conduct investigations; ~~to,~~

11 (b) summon and compel the attendance at ~~such~~ the hearing
12 of witnesses; ~~to,~~

13 (c) require the production of any records or documents
14 pertinent to the subject matter of any investigation
15 or hearing; ~~and to~~

16 (d) provide for the taking of depositions of witnesses.

17 3. Notice of the date, time and place of any ~~such~~ hearing shall
18 be given by registered mail not less than ten (10) days, exclusive
19 of the date of mailing, before the date thereof, addressed to the
20 registrant complained against and to any other parties involved,
21 each of whom shall have the right to file answer, to appear and be
22 heard in person and by counsel, and to present evidence at such
23 hearing.

1 C. If the ~~Administrator~~ Commission finds at the hearing that
2 the registrant has violated or is violating or has failed or is
3 failing to comply with any provision of the Oklahoma Liquefied
4 Petroleum Gas Regulation Act or ~~such~~ any rules, specifications or
5 ~~any order issued thereto pursuant to this act~~, the ~~Administrator~~
6 Commission, if the findings justify such action, shall issue an
7 order suspending the ~~registrant's~~ registration permit of the
8 registrant for a period not to exceed ninety (90) days, revoking the
9 registration permit, or imposing an administrative penalty of not
10 more than Five Hundred Dollars (\$500.00) for each separate offense.
11 Any administrative penalty imposed pursuant to this section shall be
12 deposited into the Liquefied Petroleum Gas Fund, created pursuant to
13 Section 420.11 of this title.

14 D. 1. The ~~Administrator's~~ findings, judgment and order of the
15 Commission shall be reduced to writing and be recorded in a
16 permanent public record to be retained in the office of the
17 ~~Administrator~~ Commission. Copies shall be furnished to the
18 registrant complained against ~~and to the Board~~.

19 2. Any registrant who has been assessed an administrative
20 penalty or whose registration permit is suspended or revoked by the
21 ~~Administrator~~ Commission may, pursuant to Section 317 of Title 75 of
22 the Oklahoma Statutes, file for a rehearing, reopening or
23 reconsideration by the ~~Board~~ Commission. The registrant shall be
24 given the opportunity to request a de novo hearing by the ~~Board~~

1 Commission. ~~Such~~ The decision by the ~~Board~~ Commission shall
2 constitute final action by the ~~Board~~ Commission.

3 3. Any registrant who has been assessed an administrative
4 penalty or whose registration permit has been suspended or revoked
5 upon review by the ~~Board~~ Commission may, within thirty (30) days
6 after ~~such~~ the filing, suspension or revocation, file an appeal with
7 the district court of Oklahoma County or in the county wherein the
8 registrant resides or has its principal place of business in this
9 state, pursuant to Article II of the Administrative Procedures Act.

10 E. 1. Except for an emergency as determined by the ~~Board~~
11 Commission upon the filing of a request for a rehearing, reopening
12 or reconsideration or as determined by the court upon an appeal for
13 judicial review of the order, enforcement of the ~~Administrator's~~
14 order of the Commission shall be stayed pending final disposition of
15 such rehearing or appeal.

16 2. Upon affirmance, the order shall become final and conclusive
17 and the stay of enforcement shall be vacated.

18 F. The ~~Board~~ Commission shall promulgate reasonable rules
19 governing the sale or transfer of business, facilities or a permit
20 connected with or to be used in operations subject to regulation
21 pursuant to the Oklahoma Liquefied Petroleum Gas Regulation Act.

22 SECTION 10. AMENDATORY 52 O.S. 2001, Section 420.7, as
23 amended by Section 4, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2009,
24 Section 420.7), is amended to read as follows:

1 Section 420.7 A. It shall be the duty of the ~~Administrator~~
2 Corporation Commission to inspect, or to provide for the inspection
3 of, any LPG systems, containers, apparatus, or appliances installed
4 in this state, and any LPG bulk-delivery trucks or trailers used in
5 this state, whenever in the discretion of the Administrator, ~~any~~
6 ~~deputy~~, or any safety code enforcement officer ~~such~~ the inspection
7 is necessary to effectuate the purposes of this act. The
8 Administrator ~~and any deputy~~ or safety code enforcement officer, or
9 other authorized employees of the Commission are hereby severally
10 empowered and authorized to enter upon any premises where any ~~such~~
11 installation is being or has been made to conduct ~~such~~ an
12 inspection.

13 B. The ~~Administrator, under the direction of the Board,~~
14 Commission shall require proving of metering system to determine the
15 accuracy to be within the manufacturer's tolerance not to exceed
16 plus or minus one percent (1%) at any time. The LPG liquid meter
17 system shall be designed and constructed to provide for applying
18 lead-and-wire seals in such a manner that no modifications or
19 adjustments which would affect the accuracy of deliveries, can be
20 made without mutilating the seal or seals.

21 C. Every person to whom the ~~Board or the Administrator~~
22 Commission issues a registration permit as ~~herein~~ provided in the
23 Oklahoma Liquefied Petroleum Gas Regulation Act shall have immediate
24 possession of the permit at all times when engaged in that phase of

1 the LPG business for which the same was issued and shall display the
2 same upon demand of the Administrator, ~~the chief deputy~~
3 ~~administrator, or any deputy administrator~~ or safety code
4 enforcement officer.

5 D. The Administrator and ~~the chief deputy administrator, and~~
6 ~~such deputies and~~ safety code enforcement officers as the
7 ~~Administrator shall by appropriate written commission appoint,~~
8 employed by the Commission shall have all of the powers and
9 authority of peace officers of this state in making arrests for
10 violations of this act or the safety rules promulgated ~~thereunder~~
11 pursuant to this act, or in serving any process, notice or order
12 connected with the enforcement of this act issued by the
13 ~~Administrator~~ Commission.

14 E. The Administrator, ~~the chief deputy administrator and any~~
15 ~~deputy administrator~~ or safety code enforcement officer are hereby
16 empowered and authorized to sign complaints against and to cause the
17 arrest of any person charged with a violation or violations of ~~this~~
18 ~~act~~ the Oklahoma Liquefied Petroleum Gas Regulation Act or the
19 safety rules promulgated ~~thereunder~~ pursuant to this act. In the
20 event the district attorney fails or refuses to draw or endorse any
21 complaint submitted to the district attorney and the complainant,
22 whether it be the Administrator, ~~the chief deputy administrator or~~
23 ~~any deputy administrator~~ or safety code enforcement officer, desires
24 to secure prosecution of the complaint, then and in that event any

1 court of competent jurisdiction shall be authorized to issue a
2 warrant for the arrest of the person charged in the complaint and
3 the complainant shall not be required to file with the court the
4 bond provided to be filed with and approved by the court in Sections
5 231 through 233 of Title 22 of the Oklahoma Statutes.

6 F. The Administrator and any ~~deputy or~~ safety code enforcement
7 officer are hereby severally empowered and authorized to condemn any
8 liquefied petroleum gas system, container, apparatus or appliance in
9 this state not manufactured, fabricated, assembled or installed in
10 accordance with the safety rules adopted or promulgated under ~~this~~
11 ~~act~~ the Oklahoma Liquefied Petroleum Gas Regulation Act, and shall
12 have the authority to forbid the use of any ~~such~~ system, container,
13 apparatus or appliance unless and until the same have been made to
14 comply in all respects with ~~such~~ the safety rules.

15 G. The ~~Administrator~~ Commission is hereby empowered and
16 authorized to inspect or cause the inspection of the records of any
17 person, firm or corporation pertaining to the installation by such
18 person, firm or corporation of liquefied petroleum gas systems,
19 containers, apparatus or appliances in this state.

20 H. The Attorney General of the State of Oklahoma shall appear
21 and represent the ~~Administrator and the Board and members thereof,~~
22 ~~or any of them,~~ Commission and employees of the Commission in all
23 litigation or other proceedings that may arise in the discharge of
24 duties and shall, at the request of the ~~Administrator~~ Commission,

1 assist the district attorney in prosecuting charges of violations of
2 this act.

3 SECTION 11. AMENDATORY 52 O.S. 2001, Section 420.8, is
4 amended to read as follows:

5 Section 420.8 Any person, firm or corporation violating any of
6 the provisions of ~~Section 420.1 et seq. of this title~~ the Oklahoma
7 Liquefied Petroleum Gas Regulation Act, or any rule promulgated
8 ~~thereunder~~ pursuant to this act, or installing in this state any
9 liquefied petroleum gas system or appliance which does not comply
10 with ~~such~~ the safety rules shall be guilty of a misdemeanor, and
11 upon conviction thereof ~~such~~ the person or the responsible members
12 of ~~such~~ the firm, or the responsible officers of ~~such~~ the
13 corporation, shall, in addition to any fine imposed by the
14 ~~Administrator~~ Corporation Commission pursuant to Section 420.6 of
15 this title, be punished by a fine of not less than Five Hundred
16 Dollars (\$500.00) or imprisonment in the county jail for not more
17 than thirty (30) days, or by both such fine and imprisonment.

18 SECTION 12. AMENDATORY 52 O.S. 2001, Section 420.9, is
19 amended to read as follows:

20 Section 420.9 A. All liquefied petroleum gases designated as
21 commercial propane, commercial butane, or mixtures thereof, sold for
22 consumption in this state, shall, when subjected to the test methods
23 of the Gas Processors Association of America, meet applicable
24

1 specifications adopted as tentative standards by ~~said~~ the
2 Association for the particular product sold.

3 B. All vehicles used in hauling or transporting liquefied
4 petroleum gases upon the highways of this state shall be identified
5 in ~~such a~~ manner as the ~~Administrator~~ Corporation Commission may, by
6 rule, prescribe.

7 C. The Department of Public Safety of the State of Oklahoma
8 shall cooperate with the ~~Administrator~~ Commission in the enforcement
9 of the provisions of this section, and the rules promulgated
10 ~~thereunder~~ pursuant to this section.

11 D. Transport trucks transporting liquefied petroleum gases
12 intrastate which are owned or operated by a person subject to and
13 licensed by the Oklahoma Liquefied Petroleum Gas Regulation Act
14 shall not be required to obtain or possess an intrastate motor
15 carrier or private carrier license issued by the ~~Oklahoma~~
16 ~~Corporation~~ Commission.

17 E. Transport trucks transporting liquefied petroleum gases out
18 of the state, but not required to bear Oklahoma license, shall not
19 be subject to the permit fees prescribed by the Oklahoma Liquefied
20 Petroleum Gas Regulation Act, but shall be subject to all of the
21 other requirements of the Oklahoma Liquefied Petroleum Gas
22 Regulation Act and any safety rule or specification promulgated
23 ~~thereunder~~ pursuant to this act.

24

1 F. Bulk deliveries of liquefied petroleum gases at retail shall
2 be metered in accordance with rules promulgated by the ~~LP Gas Board~~
3 Commission.

4 G. Containers shall be filled or used only upon authorization
5 of the fee simple owner. The name of the fee simple owner, if other
6 than the consumer, shall be conspicuously shown on the container.

7 H. At least one attendant shall remain close to the transfer
8 connection from the time the connections are first made until they
9 are finally disconnected, during the transfer of the product.

10 During the actual transfer of liquids into containers at domestic
11 type dwellings and installations, the attendant shall not enter into
12 any type of enclosure including but not limited to truck cabs,
13 dwellings, and barns and shall maintain visual contact with the
14 liquid level gauge at all times.

15 SECTION 13. AMENDATORY 52 O.S. 2001, Section 420.11, as
16 last amended by Section 1, Chapter 349, O.S.L. 2005 (52 O.S. Supp.
17 2009, Section 420.11), is amended to read as follows:

18 Section 420.11 A. All funds and fees, from whatsoever source
19 derived, and collected by the Administrator Corporation Commission
20 under the provisions of ~~Section 420.1 et seq. of this title the~~
21 Oklahoma Liquefied Petroleum Gas Regulation Act, shall be deposited
22 into the Liquefied Petroleum Gas Fund, created in this section.
23 ~~Effective July 1, 2004, and for each fiscal year thereafter, the~~
24 ~~Administrator shall deposit ten percent (10%) of the total amount~~

1 ~~collected from fees and funds by the Administrator to the credit of~~
2 ~~the General Revenue Fund of the State Treasury. The Administrator~~
3 ~~and the Board are hereby vested and empowered with the authority~~
4 Commission is authorized to make any and all necessary expenditures
5 from the fund that in their judgment are reasonable and required to
6 effectuate the purposes of this act. The ~~Administrator~~ Commission
7 shall annually file with the Governor a report of all activities of
8 the fund, which shall include a statement of all receipts and
9 disbursements.

10 B. There is hereby created in the State Treasury a revolving
11 fund for the ~~Oklahoma Liquefied Petroleum Gas Board~~ Corporation
12 Commission to be designated the Liquefied Petroleum Gas Fund. All
13 monies accruing to the credit of the fund are hereby appropriated
14 and may be budgeted and expended by the ~~Oklahoma Liquefied Petroleum~~
15 ~~Gas Board~~ Commission as provided for in this section. Expenditures
16 from the fund shall be made upon warrants issued by the State
17 Treasurer against claims filed as prescribed by law with the
18 Director of State Finance for approval and payment.

19 ~~C. Section 211 of Title 62 of the Oklahoma Statutes shall not~~
20 ~~apply to the funds and fees collected by the Liquefied Petroleum Gas~~
21 ~~Board.~~

22 SECTION 14. AMENDATORY 52 O.S. 2001, Section 420.14, is
23 amended to read as follows:

24

1 Section 420.14 ~~The State Liquefied Petroleum Gas Administrator~~
2 Corporation Commission shall not issue or renew any registration
3 permit or license to any person, firm, or corporation who is a
4 resident of, or whose principal place of business is located in, a
5 state other than Oklahoma unless the laws of ~~such~~ the other state,
6 and the rules and regulations of the authority governing the storage
7 and dispensing of liquefied petroleum gas permit the operation of
8 ~~such~~ the business by citizens, firms, or corporations of Oklahoma
9 under the same or substantially similar terms and conditions as
10 those required for ~~such~~ operation in this state.

11 SECTION 15. AMENDATORY 52 O.S. 2001, Section 420.15, is
12 amended to read as follows:

13 Section 420.15 ~~The LP-Gas Board~~ Corporation Commission shall
14 provide for the holding of safety schools for the benefit of the
15 liquefied petroleum gas dealers and employees in the State of
16 Oklahoma, at ~~such~~ times and in ~~such~~ places as may be deemed
17 advisable and may, by lawfully adopted rules, require attendance and
18 successful completion of courses held as a condition precedent to
19 retaining permits issued ~~hereunder~~ pursuant to the Oklahoma
20 Liquefied Petroleum Gas Regulation Act. The Administrator shall
21 perform ~~such~~ any duties in connection with those schools as the
22 ~~Board might~~ Commission may direct.

23 SECTION 16. AMENDATORY 52 O.S. 2001, Section 420.20, is
24 amended to read as follows:

1 Section 420.20. This act shall be known and may be cited as the
2 "Oklahoma Liquefied Petroleum Gas ~~Research, Marketing and Safety~~
3 Act".

4 SECTION 17. AMENDATORY 52 O.S. 2001, Section 420.21, as
5 amended by Section 6, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2009,
6 Section 420.21), is amended to read as follows:

7 Section 420.21 As used in the Oklahoma Liquefied Petroleum Gas
8 ~~Research, Marketing and Safety Act~~:

9 1. "Commission" means the ~~Oklahoma Liquefied Petroleum Gas~~
10 ~~Research, Marketing and Safety~~ Corporation Commission;

11 2. "Cargo container" means any receptacle mounted on a
12 transport vehicle, including a bobtail or semitrailer designed and
13 used for the transportation or storage of liquefied petroleum gas,
14 but shall not include the motor fuel tank of the vehicle;

15 3. "First sale" means the first transaction within the State of
16 Oklahoma in which ownership of odorized liquefied petroleum gas
17 transfers from seller to purchaser;

18 4. "Importer" means the owner of odorized liquefied petroleum
19 gas (LP gas) at the time of entry into this state from another state
20 or from outside the United States;

21 5. "Liquefied petroleum gas (LP gas)" means any material that
22 is composed predominantly of any of the following hydrocarbons or
23 mixtures of hydrocarbons: propane, propylene, normal butane,
24 isobutane or butylenes;

1 6. "Loading rack" means any material handling facility where LP
2 gas is loaded into cargo containers, including, but not limited to,
3 gas processing plants, refineries, underground and aboveground bulk
4 storage facilities, pipeline terminals and unattended LP gas
5 dispensing facilities;

6 7. "Loading rack operator" means the owner or any person or
7 entity controlling the day-to-day operations of the facility. When
8 this person or entity is not the person or entity invoicing the
9 first sale of odorized LP gas dispensed into a cargo container at a
10 loading rack, the person or entity invoicing the first sale of
11 odorized LP gas dispensed into a cargo container at a loading rack
12 shall be considered the loading rack operator;

13 8. "Person" means any individual, group of individuals, or any
14 partnership, corporation, association, cooperative, or employee
15 thereof, or any other entity; and

16 9. "Time of import" means the time of entry into the State of
17 Oklahoma from another state or from outside the United States.

18 SECTION 18. AMENDATORY 52 O.S. 2001, Section 420.22, as
19 amended by Section 1, Chapter 41, O.S.L. 2006 (52 O.S. Supp. 2009,
20 Section 420.22), is amended to read as follows:

21 Section 420.22 ~~A. There is hereby created until July 1, 2012,~~
22 ~~the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety~~
23 ~~Commission which shall be subject to the provisions of the Oklahoma~~
24 ~~Sunset Law. The purpose of~~ Pursuant to the provisions of the

1 Oklahoma Liquefied Petroleum Gas Safety Act, the Corporation
2 Commission ~~is to~~ shall coordinate ~~marketing and research activities~~
3 ~~of the LP gas industry~~ and ~~to~~ promote safety in the liquefied
4 petroleum gas industry through programs and education.

5 ~~B. The Commission shall be subject to review and termination~~
6 ~~under the Oklahoma Sunset Law prior to July 1, 2012, if at least~~
7 ~~fifty one percent (51%) of all Class I LP gas permit holders in the~~
8 ~~state sign a petition requesting such a review. The petition shall~~
9 ~~be submitted to the House of Representatives and State Senate~~
10 ~~committees responsible for sunset review.~~

11 SECTION 19. AMENDATORY 52 O.S. 2001, Section 420.24, is
12 amended to read as follows:

13 Section 420.24 The Corporation Commission shall have the power
14 and duty to:

15 1. Administer and enforce the provisions of the Oklahoma
16 Liquefied Petroleum Gas ~~Research, Marketing and Safety Act;~~

17 2. ~~Establish an office for the Commission within the State of~~
18 ~~Oklahoma;~~

19 3. ~~Elect a chairperson and whatever other officers may be~~
20 ~~necessary to direct operations of the Commission;~~

21 4. ~~Employ personnel as shall be deemed necessary to carry out~~
22 ~~the purpose and provisions of the Oklahoma Liquefied Petroleum Gas~~
23 ~~Research, Marketing and Safety Act and to prescribe their duties and~~
24 ~~fix their compensation;~~

1 ~~5.~~ 3. Establish and administer the LP Gas ~~Research, Marketing~~
2 ~~and Safety Revolving Fund;~~

3 ~~6. Approve or disapprove the budget of the Commission;~~

4 ~~7.~~ 4. Promulgate rules as it deems necessary to carry out the
5 provisions of the Oklahoma Liquefied Petroleum Gas ~~Research,~~
6 ~~Marketing and Safety Act;~~

7 ~~8.~~ 5. Enter into contracts or agreements for ~~studies, research~~
8 ~~projects,~~ safety programs and education activities, ~~experimental~~
9 ~~work, supplies or other services~~ to carry out the purposes of the
10 Oklahoma Liquefied Petroleum Gas ~~Research, Marketing and Safety Act,~~
11 and incur those expenses necessary to carry out those purposes. Any
12 contract or agreement shall provide that:

13 a. the person entering the contract or agreement on
14 behalf of the Commission shall develop and submit to
15 the Commission a plan or project together with a
16 budget that shows estimated costs to be incurred for
17 the plan or project, and

18 b. the person entering the contract or agreement shall
19 keep accurate records of all of its transactions,
20 account for funds received and expended, and make
21 periodic reports to the Commission of activities
22 conducted, and any other reports as the Commission may
23 require;

24

1 ~~9.~~ 6. Keep accurate records of all financial transactions
2 performed pursuant to the Oklahoma Liquefied Petroleum Gas ~~Research,~~
3 ~~Marketing and~~ Safety Act. These records shall be audited annually
4 by an independent auditor and an annual report shall be compiled and
5 presented to the Governor;

6 ~~10.~~ 7. Cooperate with any private, local, state or national
7 commission, organization, agency or group and to make contracts and
8 agreements for joint programs beneficial to the LP gas industry;

9 ~~11.~~ 8. Accept donations, grants, contributions and gifts from
10 any public or private source and deposit the money in the LP Gas
11 ~~Research, Marketing and~~ Safety Revolving Fund;

12 ~~12.~~ 9. Approve or disapprove the investment of any monies in
13 the LP Gas ~~Research, Marketing and~~ Safety Revolving Fund pursuant to
14 Section 7 420.26 of this ~~act~~ title; and

15 ~~13.~~ 10. Keep an accurate record of all assessments collected.

16 SECTION 20. AMENDATORY 52 O.S. 2001, Section 420.26, is
17 amended to read as follows:

18 Section 420.26 There is hereby created in the State Treasury a
19 revolving fund for the ~~Oklahoma Liquefied Petroleum Gas Research,~~
20 ~~Marketing and Safety~~ Corporation Commission to be designated the "LP
21 Gas ~~Research, Marketing and~~ Safety Revolving Fund". The fund shall
22 be a continuing fund, not subject to fiscal year limitations and
23 shall consist of all monies received by the Commission from
24 assessments received and collected pursuant to Section 420.27 of

1 this title, and donations, grants, contributions and gifts from any
2 public or private source and any monies appropriated by the Oklahoma
3 State Legislature. The Commission may expend funds as provided for
4 by law. Expenditures from the fund shall be made upon warrants
5 issued by the State Treasurer against claims filed as prescribed by
6 law with the Director of State Finance for approval and payment.

7 SECTION 21. AMENDATORY 52 O.S. 2001, Section 420.27, as
8 amended by Section 7, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2009,
9 Section 420.27), is amended to read as follows:

10 Section 420.27 A. To fund the activities of the Corporation
11 Commission in implementing the provisions of the Oklahoma Liquefied
12 Petroleum Gas Safety Act, an assessment shall be imposed on the
13 first sale of odorized LP gas or at the time of import of odorized
14 LP gas into the State of Oklahoma. Each operator of a loading rack
15 on delivery into any cargo container shall collect from the person
16 who purchases the odorized LP gas an assessment in an amount of one-
17 half cent (\$0.005) per gallon. Each owner of odorized LP gas, at
18 the time of import into this state, shall be responsible for the
19 payment of the one-half cent (\$0.005) per gallon assessment on the
20 volume of LP gas at the time of import.

21 B. The assessment shall be computed on the net amount of
22 odorized LP gas delivered into a cargo container.

23 C. Loading rack operators and importers shall maintain
24 sufficient records regarding their LP gas operations to enable the

1 Commission to determine whether the loading rack operators and
2 importers have remitted all fees due under the provisions of
3 subsection A of this section. Loading rack operators and importers
4 shall make such records available to the Commission for inspection
5 and shall maintain ~~such~~ the records for the minimum period of time
6 that business records are required to be maintained by the Internal
7 Revenue Service.

8 D. Upon a determination by a majority vote of the Commission
9 that just cause exists, a representative of the Commission may, at
10 reasonable times and after reasonable notice to the loading rack
11 operator and importer, enter an office, premises or place of
12 business of a loading rack operator or importer to inspect, examine
13 and obtain copies of the LP gas operation records maintained
14 pursuant to subsection C of this section, for the purpose of
15 conducting an audit or investigation or enforcing or administering
16 this act. The loading rack operator or importer or their
17 representative is entitled to be present when the Commission
18 representative enters to make inspections and examinations on the
19 premises of the loading rack operator or importer.

20 E. The Commission ~~shall serve notice to the Oklahoma Liquefied~~
21 ~~Petroleum Gas Administrator regarding any importer who fails to~~
22 ~~remit the assessment as required under the provisions of this~~
23 ~~section. Upon notice and hearing, Oklahoma Liquefied Petroleum Gas~~
24 ~~Board~~ may suspend or revoke any registration permit issued to the

1 loading rack operator or importer by the Commission pursuant to the
2 Oklahoma Liquefied Petroleum Gas Board Regulation Act until all
3 assessments and penalties are paid in full.

4 SECTION 22. AMENDATORY 52 O.S. 2001, Section 420.28, as
5 amended by Section 8, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2009,
6 Section 420.28), is amended to read as follows:

7 Section 420.28 A. Each operator of a loading rack or owner of
8 LP gas at the time of import shall, on or before the 25th day of the
9 month following the end of each calendar month, file a report with
10 the ~~Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety~~
11 Corporation Commission and remit the amount of assessments required
12 to be collected or paid during the preceding month to the
13 Commission, which shall be deposited in the LP Gas ~~Research,~~
14 ~~Marketing and Safety~~ Revolving Fund.

15 B. Loading rack operators or owners of LP gas at the time of
16 import filing a report or remitting fees later than the 25th day of
17 the month in which fees are due, but within thirty (30) days of the
18 deadline, shall remit a penalty in the amount of five percent (5%)
19 of the amount of fees originally due and payable.

20 C. Loading rack operators or owners of LP gas at the time of
21 import filing a report or remitting fees more than thirty (30) days
22 after the deadline shall remit a penalty in the amount of ten
23 percent (10%) of the fees originally due and payable.

24

1 D. An additional penalty of seventy-five percent (75%) of the
2 amount of the fees and penalties due and payable will be added to
3 penalties set forth in subsections B and C of this section if the
4 failure to file a report or to remit the fees collected is
5 determined by the Commission to be a result of fraud or an intent to
6 evade the provisions of this act or the rules of the Commission.

7 E. The Commission shall be responsible for taking appropriate
8 legal actions to collect any assessment which is not paid or is not
9 properly paid. At the request of the Commission, the Attorney
10 General is authorized to take any necessary action to collect any
11 fees or penalties due under the provisions of this act.

12 SECTION 23. AMENDATORY 52 O.S. 2001, Section 420.29, is
13 amended to read as follows:

14 Section 420.29 A. Any person subject to the assessment levied
15 by Section 420.27 of this title may request a refund, as provided
16 for in this section, of the assessment paid on the first sale of
17 odorized LP gas for the preceding calendar year. Upon compliance
18 with the provisions of this section and rules promulgated by the
19 Corporation Commission, the Commission shall refund to each person
20 requesting a refund the amount of the assessment paid by or on
21 behalf of such person during the preceding calendar year. Refunds
22 made to persons subject to the assessment shall in turn be refunded
23 by the person to each customer based on the percentage of the total

24

1 volume of LP gas purchased by each customer. As used in this
2 section, "customer" shall mean the end-user who consumes the LP gas.

3 B. The request for a refund of the assessment for the preceding
4 calendar year ~~must~~ shall be made during the first calendar month
5 following the calendar year for which the refund is requested.
6 Failure to request a refund during this period shall terminate the
7 right of any person to receive a refund for the assessment paid for
8 the preceding calendar year. The Commission shall give notice of
9 the availability of the refund through press releases or such other
10 means as it deems appropriate.

11 C. Each person requesting a refund shall execute an affidavit
12 showing the amount of refund requested and the volume of sales of LP
13 gas made by the person to each customer. The Commission may require
14 records to be submitted verifying the volume of sales and may verify
15 the accuracy of the request for refund.

16 D. No person or company who requests a refund under this
17 section shall be eligible to serve or have a representative serve as
18 a member of the Commission.

19 SECTION 24. AMENDATORY 52 O.S. 2001, Section 420.29-1,
20 is amended to read as follows:

21 Section 420.29-1 A. No fee shall be collected on any
22 deliveries of odorized LP gas destined for export out of this state
23 if the LP gas is in continuous movement to a destination outside of
24 this state.

1 B. Purchasers or representatives of purchasers claiming an
2 exemption under this section ~~must~~ shall complete a form, provided by
3 the Corporation Commission, and return it to the loading rack
4 operator making the exempt delivery. Any purchaser requesting an
5 exemption for a particular load or for all LP gas purchased shall
6 complete a form provided by the Commission. Each loading rack
7 operator shall keep all exemptions forms filed with ~~him or her~~ the
8 operator on file and available for inspection by the Commission for
9 a period of four (4) years.

10 SECTION 25. AMENDATORY 52 O.S. 2001, Section 420.29-2,
11 is amended to read as follows:

12 Section 420.29-2 Any purchaser who pays a fee to a loading rack
13 operator or owner of LP gas at the time of import on a load of LP
14 gas that is exempt under the provisions of this act may apply to the
15 loading rack operator or owner of the LP gas at the time of import
16 for a refund of the amount paid. To apply for a refund, the
17 purchaser ~~must~~ shall complete a refund request form provided by the
18 Corporation Commission, and return it to the loading rack operator
19 or owner of the LP gas at the time of import who collected the fee.
20 Any loading rack operator or owner of LP gas at the time of import
21 required to refund a fee to a purchaser shall report the amount of
22 the refund to the Commission. All amounts refunded and reported
23 according to the provisions of this act may be deducted from the
24 total amount of fees collected to arrive at the total amount of fees

1 to be remitted to the Commission. All refund amounts reported ~~must~~
2 shall be supported by refund request forms kept on file by the
3 loading rack operator and be available for inspection by the
4 Commission for a period of four (4) years.

5 SECTION 26. AMENDATORY 52 O.S. 2001, Section 420.29-3,
6 is amended to read as follows:

7 Section 420.29-3 Any operator of a loading rack or owner of LP
8 gas at the time of import may petition the Corporation Commission
9 for a refund of fees remitted to the Commission in error by filing
10 the proper form and returning to the Commission. The reason for the
11 refund and supporting documentation ~~must~~ shall accompany the
12 request.

13 SECTION 27. AMENDATORY 52 O.S. 2001, Section 420.30, is
14 amended to read as follows:

15 Section 420.30 Nothing in the Oklahoma Liquefied Petroleum Gas
16 ~~Research, Marketing and Safety Act~~ may be construed to preempt or
17 supersede any other program relating to LP gas ~~promotion or~~
18 ~~marketing~~ safety organized and operated under the law of the State
19 of Oklahoma or the United States. The provisions of the Oklahoma
20 Liquefied Petroleum Gas ~~Research, Marketing and Safety Act~~
21 applicable to the rules shall be applicable to amendments to the
22 rules. In the event of the establishment of a national program for
23 an assessment on propane sales, the Corporation Commission, by
24 majority vote, may elect to designate up to a maximum of twenty

1 percent (20%) of the funds collected pursuant to the Oklahoma
2 Liquefied Petroleum Gas ~~Research, Marketing and Safety~~ Act to the
3 national program in lieu of an additional assessment as may be
4 required by the national program.

5 SECTION 28. AMENDATORY 74 O.S. 2001, Section 324.7, as
6 last amended by Section 18, Chapter 439, O.S.L. 2009 (74 O.S. Supp.
7 2009, Section 324.7), is amended to read as follows:

8 Section 324.7 A. Except as otherwise specified by subsection B
9 of this section, the State Fire Marshal Commission shall have the
10 power and duty to prescribe, adopt, and promulgate, in the manner
11 set forth in this act, such reasonable rules, regulations, or
12 specifications on matters relating to the safeguarding of life and
13 property from the hazards of fire and explosion arising from
14 storage, handling, and use of flammable and combustible materials,
15 and from conditions hazardous to life or property in the use or
16 occupancy of buildings or premises, as are deemed just and
17 reasonable and in accordance with the codes as last adopted by the
18 Oklahoma Uniform Building Code Commission, and not inconsistent with
19 this act, and to revoke, amend, or supersede the same. Exceptions
20 to these standards shall be granted to detention and correction
21 facilities in existence on November 1, 1985, when noncompliance
22 would not result in a life-threatening condition to inmates
23 incarcerated in such facilities. All such rules, regulations, and
24 specifications or any revisions or amendments thereto shall not

1 become effective until promulgated in accordance with the provisions
2 of the Administrative Procedures Act.

3 B. 1. Liquefied petroleum gas defined by Section 420.1 of
4 Title 52 of the Oklahoma Statutes shall be regulated by the ~~Oklahoma~~
5 ~~Liquefied Petroleum Gas Board~~ Corporation Commission.

6 2. Flammable liquids stored in tanks at service stations shall
7 be regulated by the Corporation Commission.

8 C. For the purpose of this section:

9 1. "Flammable liquids" means all petroleum products used as
10 motor fuel and all grades of gasoline, kerosene, diesel fuel and
11 aviation fuel having a vapor pressure not exceeding forty (40)
12 pounds per square inch absolute at one hundred (100) degrees
13 Fahrenheit;

14 2. "Service station" means any facility including but not
15 limited to businesses serving the public, marinas and airports where
16 flammable liquids are stored in aboveground tanks and dispensed for
17 retail sales into the fuel tanks of airplanes, vessels or motor
18 vehicles of the public; and

19 3. "Aboveground tank" means any stationary vessel at a service
20 station and is located above the surface of the ground or on the
21 ground which is designed to contain an accumulation of flammable
22 liquids and which is constructed of nonearthen materials that
23 provide structural support.

24

1 SECTION 29. REPEALER 52 O.S. 2001, Section 420.10, is
2 hereby repealed.

3 SECTION 30. REPEALER 52 O.S. 2001, Section 420.17, as
4 amended by Section 5, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2009,
5 Section 420.17), is hereby repealed.

6 SECTION 31. REPEALER 52 O.S. 2001, Section 420.23, is
7 hereby repealed.

8 SECTION 32. REPEALER 52 O.S. 2001, Section 420.25, is
9 hereby repealed.

10 SECTION 33. This act shall become effective July 1, 2010.

11 SECTION 34. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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