

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
John Thurston  
500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## Summary of Rule Changes

### Ark Admin. Code 237.08.1-10; 237.08.1-12; 237.08.1-16; 237.008.1-17

**Change 1.** This rule would allow a replacement "Fit For Service" name plate \ data plate to be affixed to LP-Gas storage containers and then placed in service within the following agriculture applications:

- a. Fuel for irrigation units
- b. Fuel for livestock operations
- c. Fuel for crop drying

**Purpose:** Current language prohibits the servicing of an LP-Gas storage container that has a missing name plate\data plate. This forces what would be otherwise good storage containers to be taken out of service. Rather than scrapping good storage containers, this rule provides a procedure that would allow a storage container to go through a board approved inspection process that would certify the storage container as "Fit For Service". The storage container could then have a "Fit For Service" name plate \ data plate affixed to it and placed back into service. Applications in which "Fit For Service" storage containers could be used would be limited to agricultural.

This rule would have a large positive economic impact on LP-Gas dealers locating storage containers at poultry houses, hog farms, irrigation pumps, and grain dryers.

**Change 2.** The new rule would allow the transfer of LP-Gas directly from a railcar into a cargo tank under the following conditions:

- a. Installation is done in accordance with NFPA 58 requirements.
- b. The period of installation is limited to 24 months
- c. Installation must meet requirements for a Class 8 Permit
- d. Annual inspections must be made

**Purpose:** The purpose of this rule is to remove language that prohibits the procedure of transferring LP-Gas directly from a railcar into a cargo tank.

By allowing this procedure, the LP-Gas industry could build infrastructure in the state which could insulate it from product shortage due to unforeseen events such as extended or extreme winter weather, pipeline interruption, refinery shutdown, terminal shutdown or closure, and diversion for feed stock.

This will encourage competition at the wholesale level allowing entry into the market at a greatly reduced capital investment.

This removes the limitation of terminal services needing access to a pipeline and can be opened up to locations throughout the state.

**Change 3.** This new rule would require All cylinders with a capacity of over 40lbs of propane, that are not fitted with an OPD valve, must be transported and stored with a POL plug. Cylinder valves requiring maintenance that are fifteen (15) years or older must be replaced. Board approved signage must be displayed in a prominent location. Permit holders must use the Board approved form to report new and existing station locations. Class 1 and Class 3 permit holder will provide Board approved training for exchange station employees. Record of such training will be transmitted to the Board office.

**Purpose:** The Purpose of this rule change is to ensure public safety concerning transportation of propane cylinders.

**Change 4.** Finally, this change includes basic clean up to fix references to the current NFPA standards, etc.



## LIQUEFIED PETROLEUM GAS BOARD

### FIT FOR SERVICE:

Rule Change: All LP-Gas containers must have a data plate securely affixed in order to be legally serviced.

State Code: 2009 publication page 43 – Section 10 Containers.

D. All containers shall have the manufacturer's name plate firmly attached to the container, designating the manufacturer's serial number, maximum allowable working pressure, year built, diameter, length, shell and head thickness, and capacity in water gallons.

On underground containers, the manufacturer's name plate shall also be attached in a firm manner in the dome cover, as well as on the tank itself.

This prohibitive language first appeared in our code book in 1949. It was not included in the 1947 publication.

The data plate, or manufacturer's name plate, assures anyone that is servicing the container that it has been designed and is suited for use with LP-Gas.

Because of this rule, storage containers that are perfectly safe for storing LP-Gas have been rendered useless and taken out of service simply because the data plate / name plate has become detached from the shell. With the ever-increasing price of steel, this has become a financial concern for the industry.

With technological advances that have developed over the years container inspections have been developed to allow a "Fit For Service" designation. This would allow a data plate / name plate to be attached to the container certifying it as "Fit For Service".

The board voted during our March 11<sup>th</sup> board meeting to allow Fit For Service in Arkansas under the following conditions:

1. All containers with missing data plates / name plates must be certified "Fit For Service" using board approved inspection methodology. (See attached)
2. All entities seeking to inspect and designate "Fit For Service" containers must be approved and permitted by the board. (See attached).

3. Storage containers allowed under “Fit For Service” are limited in size from 500 w.g. up to 1000w.g. (This limitation does not apply to large bulk storage located at permit holders’ bulk plant)
4. Application that “Fit For Service” containers can be used will be limited to agricultural and for the following purposes.
  - a. Provide fuel to irrigation units.
  - b. Provide fuel for commercial livestock operations – Poultry House, Hog Houses etc...
  - c. Provide fuel for crop drying

Any additional agricultural applications may be brought before the board for consideration.



## LIQUEFIED PETROLEUM GAS BOARD

### TRANSLOADING

Rule Change: A procedure used by the industry to transfer Liquefied Petroleum Gas directly from a rail car to a transport, commonly known as “Transloading”, has been prohibited by our rules.

State Code: 2009 publication page 65 – 17. Storage Containers.

#### 17. STORAGE CONTAINERS:

(The words "Storage Containers" shall be construed to mean all vessels used for bulk storage and commercial storage of liquefied petroleum gases.)

The use of a railway tank car as a bulk storage container is prohibited and the transferring of liquefied petroleum gases from a railway tank car into delivery trucks, trailers, or semi-trailers is strictly prohibited. The gas must be transferred directly into adequate and approved bulk storage containers as outlined in the following paragraphs:

This prohibitive language first appeared in our code book in 1953. It was not included in the 1951 publication.

One of the greatest concerns we have in the industry is an unintended release of product and in particular a release of product that is in a liquid state. While unintended releases of liquid are very rare the possibility of this happening is greater when liquid is transferred from one container to another. This is mitigated when one or both containers are stationary. With transloading, both containers are mobile and the operational space is limited. I believe this is why this procedure was prohibited.

Technological advances in safety equipment coupled with DOT inspection regulation has made transloading much safer. In 2008, NFPA58 published guidelines allowing this procedure.

#### **4.3.3 Railcar to Cargo Tank Transfer.**

**4.3.3.1** Notification of intent to transfer LP-Gas directly from railcar to cargo tank shall be submitted to the authority having jurisdiction before the first transfer.

**4.3.3.2** The authority having jurisdiction shall have the authority to require inspection of the site or equipment for such transfer prior to the initial transfer.

**7.2.3.8** Where cargo tank vehicles are filled directly from railroad tank cars on a private track with nonstationary storage tanks involved, the following requirements shall be met:

- (1) Transfer protection shall be provided in accordance with Section 6.14.
- (2) Ignition source control shall be in accordance with Section 6.25.

**Arkansas Liquefied Petroleum Gas Board**  
**3800 Richards Road, North Little Rock, AR 72117**

- (3) Control of ignition sources during transfer shall be provided in accordance with 7.2.3.2.
- (4) Fire extinguishers shall be provided in accordance with 9.4.7.
- (5) Transfer personnel shall meet the provisions of 7.2.1.
- (6) Cargo tank vehicles shall meet the requirements of 7.2.3.
- (7) The points of transfer shall be located in accordance with Table 6.7.2.1 with respect to exposures.
- (8) Provision for anchorage and breakaway shall be provided on the cargo tank vehicle side for transfer from a railroad tank car directly into a cargo tank vehicle.
- (9) The provisions of Chapter 15 shall apply to all LP-Gas transfers performed in accordance with 7.2.3.8.

The code history and intent associated with NFPA58 4.3.3 and 7.2.3.8 is to allow this procedure on a temporary basis only and references a 12-month period.

The board voted during our March 11<sup>th</sup> board meeting to allow transloading in Arkansas under the following conditions:

1. Installation is done in accordance with NFPA58.
2. The period of time for the installation is limited to 24 months.
3. A Class 8 Permit must be obtained.
4. Annual inspections must be made.



## LIQUEFIED PETROLEUM GAS BOARD

### CYLINDER VALVE REPLACEMENT

Rule Change: This rule is new and an addition to our code book. This rule is in response to an incident that occurred in Beebe, AR on 4/26/2019 in which there was an unintended release of propane.

There is a segment of our industry that provides LP-Gas to consumers through the process of cylinder exchange. Cylinders are filled by either Class 1 or Class 3 Permit Holders and transported to businesses around the state that hold the cylinders for sell or exchange to consumers. These businesses are not permitted by the board nor are their employees certified by the board. Rather than require permitting and employee certification, the board focused on enhancing rules involving the transportation and storage of the cylinders, cylinder valving, and consumer awareness.

The Board voted during our December 4<sup>th</sup> 2019 meeting to require the following:

1. All cylinders with a capacity of over 40lbs of propane, that are not fitted with an OPD valve, must be transported and stored with a POL plug.
2. Board approved signage that is to be prominently displayed. Minimum size to be 16"X20". (similar to the attachment)
3. Cylinder valves 15 years and older that need maintenance must be replaced. This is to maintain a relief valve that has proper pressure rating.
4. Class 1 and Class 3 permit holders to provide board approved training for exchange station employees. Training will be documented and transmitted to the board office for recording.
5. Required use of new state form to report new station and existing station locations. (see attached)

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Energy and Environment / Liquefied Petroleum Gas Board

**DIVISION** \_\_\_\_\_

**PERSON COMPLETING THIS STATEMENT** Kevin Pfalser

**TELEPHONE NO.** (501) 683-4100 **FAX NO.** (501) 683-4110 **EMAIL:** kevin.pfalser@arkansaslpgasboard.com

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Ark Admin. Code 237.08.1-10; 237.08.1-12; 237.08.1-16; 237.008.1-17

1. Does this proposed, amended, or repealed rule have a financial impact? Yes  No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes  No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes  No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
  
- b) The reason for adoption of the more costly rule;
  
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
  
- d) Whether the reason is within the scope of the agency’s statutory authority, and if so, please explain.



4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00 \_\_\_\_\_

\$ 0.00 \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00 \_\_\_\_\_

\$ 0.00 \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?  
Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.