

**ARTICLE 5**  
**LIQUEFIED AND COMPRESSED**  
**GASSES 70-5-1 THROUGH 70-5-23**  
**NMSA 1978**

Article 5  
Liquefied and Compressed Gasses  
70-5-1 through 70-5-23

**70-5-1. Definitions.**

As used in the LPG and CNG Act [this article]:

- A. "liquefied petroleum gases", "LPG" and "LP gas" means any material that is composed predominantly of any of the following hydrocarbons or mixtures of them: propane, propylene, butanes (normal butane or iso-butane) and butylenes;
- B. "compressed natural gases" and "CNG" means mixtures of hydrocarbon gases and vapors consisting principally of methane in gaseous form, which has been compressed for vehicular fuel;
- C. "product" or "products" of liquefied petroleum gases or compressed natural gases are considered to be liquefied petroleum gases or compressed natural gases respectively;
- D. "qualified instructor" means an employee who has passed the required examination and performed for at least one year the work being taught;
- E. "inspector" means a person hired by the bureau to enforce under administrative direction the laws and safety rules and regulations of the LP gas industry and the use of CNG in motor vehicles;
- F. "division" means the construction industries division of the regulation and licensing department;
- G. "bureau" means the liquefied petroleum and compressed gas bureau of the division; and
- H. "commission" means the construction industries commission.

**70-5-2. Short title.**

Chapter 70, Article 5 NMSA 1978 may be cited as the "LPG and CNG Act".

### **70-5-3. Rules and regulations for design, construction, assembling, equipping and installing of containers and equipment.**

All containers and pertinent equipment used or to be used in this state for CNG equipment when attached to motor vehicles or for the storage, transporting or dispensing of LP gases or CNG by industrial, commercial or domestic users, together with appliances used or to be used in this state with LP gases as fuel, shall be designed, constructed, assembled, equipped and installed as specified by the rules and regulations of the commission, adopted and promulgated as provided in the LPG and CNG Act [this article].

### **70-5-4. Acts concerning LP gas or CNG subject to commission rules and regulations.**

The selling, offering for sale, constructing, assembling, repairing, equipping, installing, filling with fuel, storage of fuel within, dispensing of fuel from or transporting fuel within containers described in Section 70-5-3 NMSA 1978 without the containers having been designed, constructed, assembled, equipped, maintained, tested and inspected as specified by the rules and regulations of the commission pursuant to the LPG and CNG Act [this article] shall be a violation of the LPG and CNG Act and shall be subject to the fines, penalties and restrictions provided.

### **70-5-5. Power to adopt and promulgate rules and regulations; exceptions to act.**

A. The commission may adopt and promulgate rules and regulations as are necessary to carry out the purpose of the LPG and CNG Act [this article] and for the public peace, health and safety as affected by the use of such materials. The regulations made shall substantially conform with the standards as published by the national fire protection association covering the same subject matter. Nothing contained in this section is intended to alter the specifications for manufacturing or testing of containers established by the interstate commerce commission or the U.S. department of transportation or of containers installed in refineries, gas processing plants, underground storage terminals, natural gas distributing plants and pipeline terminals.

B. The bureau may adopt a schedule of reasonable fees to be charged for furnishing any printed matter or forms, for filing or recording any data sheets, blueprints, drawings, plans, specifications, reports and any other instrument or document and for making and furnishing copies of any record, report, regulation, rule, law or any other matter on file with the bureau.

### **70-5-6. License; exceptions.**

A. No person, firm or corporation shall engage in this state in the manufacturing, assembling, repairing, selling or installing of containers or appliances or of equipment for CNG attached or to be attached to motor vehicles

to be used with LP gases as a fuel, nor shall any person, firm or corporation engage in the manufacture, sale, transportation, dispensing or storage of LP gases within this state, except where stored by the ultimate consumer for consumption only, without having first obtained from the bureau a license to do so for each main and branch office or business operated within the state pursuant to the LPG and CNG Act [this article]. No license shall be issued until the bureau has determined that the applicant meets all safety requirements provided for in that act and required by the rules and regulations of the commission and the bureau finds that the applicant is fit and able to perform the work for which a license is requested. Provided that household appliances and any other appliance, container or equipment being fed from a reservoir less than five pounds shall not be subject to the LPG and CNG Act. Provided, further, that retail sale of LP gas appliances, including factory installed LP gas appliances and equipment on campers, mobile home and recreational vehicles, shall be exempt from this section.

B. When LP gas or CNG is to be the source of fuel, the installation of piping, appliances and equipment shall be made by installers qualified by the bureau. Property-owner installed systems, when certified by qualified installers or inspectors of the bureau are exempt from the provisions of this subsection.

#### **70-5-7. Requiring competent employees in transporting, dispensing, installation, service or repair.**

A. The bureau may require each person, firm or corporation that transports or dispenses LP gas or that installs, repairs or services appliances, containers, equipment or piping for the use of LP gas to have all persons who perform these activities pass an appropriate examination based on the safety requirements of the commission.

B. A trainee employee shall be exempt from such examination for a period of forty-five working days and until examined by a representative of the bureau. A trainee employee, during the forty-five day period, shall be under supervision of a qualified instructor. Any LP or CNG gas licensee hiring a trainee shall, within forty-five days of the commencement of employment, notify the bureau of this fact so that an examination may be scheduled. If the trainee fails to pass the examination, he may retake it after additional instruction.

C. The bureau shall set a reasonable fee for administering an examination.

#### **70-5-8. Authority of inspectors.**

A. An inspector of the bureau may enter any building or proceed on to any premises at any reasonable time in the discharge of his official duties for the purpose of making an inspection of work performed or of testing any installation within the jurisdiction of the bureau.

B. An inspector may cause immediate discontinuance of service to any installation or device, appliance or equipment found to be dangerous to life or property because it is defective, of faulty design, not properly qualified or incorrectly installed, until the installation, device, appliance or equipment is made safe. Any device, appliance or equipment that is dangerous to life or property and cannot be made safe shall be removed by the bureau and properly disposed of.

C. The inspector shall order the correction of any defects or of any incorrect installation and shall issue a notice to the owner, lessee or renter outlining the corrections to be made in order to meet bureau requirements.

D. Any authorized representative of the bureau may enter any building or proceed on to any premises for investigation where an accident has occurred in which LP gas may have been a factor. The representative may remove any item which may have been a factor in the accident, and the item shall be retained by the bureau until all questions regarding the accident are resolved.

#### **70-5-9. Annual license fees; inspection fees.**

A. For the purpose of defraying the expenses of administering the laws relating to the use of CNG in motor vehicles or the LP gas industry, each person, firm or corporation, at the time of application for a license and annually thereafter on or before December 31 of each calendar year, shall pay to the bureau reasonable license fees as set, classified and defined by the bureau for each operating location. Provided, the total annual fees charged any one licensee for a combination of LP gas activities at one location and subject to licensure under this section shall not exceed three hundred fifty dollars (\$350), and the fee charged for any single activity or operation as set, classified and defined by the bureau shall not exceed one hundred fifty dollars (\$150).

B. Nothing in the LPG and CNG Act [this article] is intended to alter the jurisdiction of the state corporation commission [public regulation commission], pipeline safety department.

C. In addition, there shall be paid a reasonable fee for the safety inspection, made by a representative of the bureau, of each LP gas bulk storage plant, LP gas liquid transfer facility and of the LP gas equipment on each vehicular unit used for transportation of LP gas in bulk quantities. The fee shall be set by the bureau and shall not be assessed more frequently than once in each twelve months. The bureau may also charge a reasonable fee for late payment of any fees .

D. No annual license fee fixed by the bureau as provided in this section shall become effective until after notice to each licensee has been made and hearing held on the proposed annual license fees in the manner provided by Section 70- 5-14 NMSA 1978. At the conclusion of any hearing, the bureau shall enter its

findings and decision in writing as a regulation, and the regulation shall be filed as provided by the State Rules Act [Chapter 14, Article 4 NMSA 1978].

#### **70-5-10. Revenue; suspense fund.**

All fees and money collected under the provisions of the LPG and CNG Act [this article] shall be remitted by the bureau to the director of the division to be deposited in the general fund of the state. The bureau may maintain a "special suspense fund" with the division in an amount of one thousand dollars (\$1,000) budgeted by the bureau for the purpose of making any necessary refunds. The bureau shall, with the advice and consent of the director of the division, employ inspectors, assistants and other necessary help as may be required to carry out its lawful duties.

#### **70-5-11. Proof of responsibility.**

- A. The bureau shall require each licensee to have combined single limit public liability insurance of a reasonable amount determined by the commission. Such coverage shall be filed on a certificate to be prescribed by the commission, and the coverage shall be effective until canceled by either the carrier or the licensee. The provisions of this subsection do not apply to manufacturers of LP gas.
- B. The licensee may file as an alternative to insurance described in Subsection A of this section a corporate surety bond of a reasonable amount determined by the commission.
- C. The insurance or the surety bond shall be purchased from a company licensed to do business in New Mexico.
- D. The certificate of insurance or the surety bond filed with the bureau shall continue to be effective until thirty days after the date the bureau is notified in writing of the cancellation of the insurance or surety bond.

#### **70-5-12. Power of bureau and commission to refuse to grant, suspend or cancel a license.**

The bureau may refuse to grant a license to any applicant and may request the commission to suspend or cancel the license of any licensee if it appears to the bureau upon hearing, as provided in the LPG and CNG Act [this article], that an applicant or licensee has violated or failed to comply with any provision of law relating to LP gas or CNG or with any rule, regulation or order of the bureau or commission or that any licensee has demonstrated that he is incompetent or lacks knowledge in matters relevant to a license to such an extent that, in the judgment of the bureau, it would endanger the public safety to allow the licensee to continue to engage in LP gas or CNG activities or operations.

### **70-5-13. Provisions for hearings.**

Upon receipt of written complaint from one of its representatives or by any person or party affected, the bureau may, if it finds probable cause for such complaint, request the commission to hold a hearing to consider the complaint under the provisions of the LPG and CNG Act [this article] and under such rules and regulations not inconsistent with that act. If at the hearing the commission finds that the licensee has violated or failed to comply with any of the provisions of the LPG and CNG Act or the rules and regulations of the bureau or commission, then the commission may revoke or suspend the license of the licensee. The bureau may investigate on its own motion any matters pertaining to the subject of the LPG and CNG Act and may hold such hearings as it deems necessary. The bureau may also summon and compel the attendance of witnesses, require the production of any records or documents deemed by it to be pertinent to the subject matter of any investigation and provide for the taking of depositions of witnesses under such rules as it may prescribe.

### **70-5-14. Notice; hearing.**

Notice of any hearing and of its time and place shall be given by certified mail not less than ten days, exclusive of the day of mailing, before the hearing. The notice shall be sent to the licensee and all persons involved. Any licensee against whom a complaint has been filed shall have the right to file answer, appear at the hearing, introduce evidence and be heard both in person and by counsel. In the hearing before the commission, the rules of civil procedure and the technical rules of evidence shall not apply, but the hearing shall be conducted so that both complaints and defenses are amply and fairly presented.

### **70-5-15. Finding; record.**

At the conclusion of any hearing held to consider a complaint filed against any licensee under the LPG and CNG Act [this article], the commission shall enter its finding and order in writing, and the finding and order shall be recorded in a permanent record to be kept by the division. A copy of the commission's finding and order shall be furnished to the licensee complained of.

### **70-5-16. Appeal.**

A licensee whose license is canceled or suspended by order of the commission may appeal the decision by filing with the court of appeals a notice of appeal within thirty days after the date the order is made. The appeal must be on the record made at the hearing. The licensee shall certify in his notice of appeal that arrangements have been made with the commission for preparation of a sufficient number of transcripts of the record of the hearing on which the appeal depends to support his appeal to the court, at the expense of the licensee, including two copies which he shall furnish to the commission. Upon appeal, the court of appeals shall set aside the decision and order of the commission only if found to be:

- A. Arbitrary, capricious or an abuse of discretion;
- B. Not supported by substantial evidence in the record; or
- C. Otherwise no in accordance with law.

**70-5-17. No formal notice required of hearing on application for license; appeal.**

The same procedure, rights and penalties as specified in the LPG and CNG Act [ 70-5-2 NMSA 1978] in the cases of revocation or suspension of licenses are available, where applicable, in cases where the bureau refused to grant a license, except that no formal notice of hearing on an application for license need be given an applicant, other than that he is given a reasonable opportunity to appear in support of his application before the bureau renders its order refusing him a license. Appeal shall be to the district court at Santa Fe County in all cases where an application for a license under the LPG and CNG Act is denied.

**70-5-18. Civil penalty for failure to comply with act or any order, rule or regulation.**

The failure of any person, firm or corporation or any association engaged in any LP gas or CNG activity or operation requiring a license by the bureau to comply, within forty- eight hours after the receipt of any certified order of the bureau or commission requiring compliance, with the laws relating to LP gases or CNG or any order, rule or regulation of the bureau or commission shall subject the person or the officers of the corporation to a civil penalty of one hundred dollars (\$100) for each day the violation continues, and the attorney general may institute civil actions in the district court of the county in which the violation occurs to recover penalties in the name and on behalf of the state.

**70-5-19. Municipalities; taxes; license fees.**

Nothing contained in the LPG and CNG Act [this article] shall be construed as preventing any municipality from collecting local occupation taxes or license fees under the provisions of any local ordinance, but licensees under the LPG and CNG Act are specifically exempted from application of the Construction Industries Licensing Act [Chapter 60, Article 13 NMSA 1978], the Uniform Licensing Act [ 61-1-1 NMSA 1978] and the Manufactured Housing Act [Chapter 60, Article 14 NMSA 1978] insofar as their LP gas operations or CNG equipment attached to or to be attached to motor vehicles are concerned

**70-5-20. Enforcement.**

The bureau may enforce the laws relating to LP gases and CNG and any rules, regulations or orders adopted by it or the commission pursuant to those laws by injunction in the district courts, which remedy shall be in addition to the civil and criminal penalties provided in the LPG and CNG Act [this article]. The chief and the inspectors of the bureau may issue citations for violation of the LPG and CNG Act.



**70-5-21. Misdemeanor.**

Any person violating any provision of the LPG and CNG Act [this article] or the rules, regulations or orders of the bureau or the commission issued pursuant to that act is guilty of a misdemeanor and shall be punished by a fine levied in a magistrate court of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500) or by imprisonment for not more than ninety days or both.

**70-5-22. Administrative penalty assessments.**

The bureau may charge an administrative penalty for any violation of the LPG and CNG Act [this article] or the rules, regulations, codes or orders of the bureau.

**70-5-23. Containers to be filled only by owner or upon the owner's authorization.**

Any LP gas container shall be filled only by the owner or upon the owner's authorization.