

The Energy Act

(No. 12 of 2006)

1. PURSUANT to section 110 (3) of the Energy Act, 2006, the Energy Regulatory Commission hereby invites members of the public to submit written comments within forty (40) days from 4th May 2018 on the proposed Liquefied Petroleum Gas (LPG) Regulations.
2. Comments may be hand-delivered, posted, facsimiled or emailed to the Energy Regulatory Commission.
3. Physical Address: First Floor, Eagle Africa Centre, Longonot Road, Upper Hill, Nairobi.
4. Postal address: P.O. Box 42681 -00100, Nairobi.
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The Draft Energy (Liquefied Petroleum Gas) Regulations, 2018

Citation	1. These regulations may be cited as the Energy (Liquefied Petroleum Gas) Regulations, 2018.
Interpretations	2. In these regulations, unless the context otherwise requires:-
Energy Act No. 12 of 2006	<p>“Agent” means a person appointed in writing by the Commission to perform any of its functions;</p> <p>“Alteration” means any act of converting, transforming, replacement or removal of existing and embossed or stamped brand owner's markings from an LPG cylinder, including, but not limited to grinding, flattening, application of putty, replacement of collar, replacement of valves, unauthorized repainting, replacement of foot-rings, re-labeling, or by any other means;</p>

“**BLEVE**” is an acronym for Boiling Liquid Expanding Vapor Explosion caused by sudden and often catastrophic yielding of the metal due to external heat and excessive internal vapor pressure. In the context of these Regulations the liquid referred to is LPG in liquid phase and in a pressurized receptacle;

“**Brand owner**” means a person who possess intellectual property rights over a brand, name, logo, colour, mark, and or any other distinction of LPG cylinders as registered with the Kenya Industrial Property Institute or other appropriate intellectual property rights agency;

“**Bulk LPG**” means LPG of a quantity exceeding eighty (80) kilograms;

“**Bulk storage**” means storage of a capacity exceeding eighty kilograms;

“**Care-taker brand owner**” means a licensee in good standing and appointed by the Commission to operate a distressed brand owner’s LPG cylinders;

Energy Act No. 12 of 2006

“**Commission**” means the Energy Regulatory Commission established under the Energy Act;

“**Consumer site**” means a facility used to store bulk LPG for own consumption by an end user;

“**Cylinder**” means an LPG receptacle conforming to the specifications of KS ISO 4706 - 1989 or the prevailing Kenya Standards for steel cylinders as approved by the National Standards Council of the Kenya Bureau of Standards;

“**Distressed brand owner**” means a brand owner who has been declared insolvent, bankrupt or has failed to meet requirements for renewal of his license for more than three (3) months on expiry of the last licence;

“LPG cylinder deposit” means a refundable amount of money paid by a consumer to facilitate use a brand owner’s returnable and exchangeable LPG cylinder to contain the purchased LPG until such a time that it is depleted and is due for re-fill;

“Distributor” means a licensed person solely appointed by a brand owner and engaged in the business of purchase and sale of liquefied petroleum gas in cylinders of that brand owner to consumers;

“Filling or Re-filling” means the packaging of LPG into cylinders;

OSHA, 2007

“Fire safety expert” a responsible fire safety professional registered by the Department of Occupational Safety and Health Services

No. 1 of 2005

“Import route” means the designated or prescribed import route under the East African Community Customs Management Act, 2004;

Cap 496

“Kenya Standard” means the specification or code of practice declared by the National Standards Council under section 9 of the Standards Act;

Energy Act No. 12 Of 2006

“Licensee” means person who is a holder of a petroleum business licence issued under the Act;

“Liquefied petroleum gas (or LPG)” means a mixture of butane and propane conforming to KS 03-91 of 1985 or the prevailing standards as approved by the National Standards Council of the Kenya Bureau of Standards;

“LPG storage” means the storing of LPG in premises consisting of one or more tanks in transit or for sale;

“Mutual LPG cylinder exchange” means an association of brand owners who have a mutual agreement on collection of empty cylinders in exchange of the brand owners filled cylinders;

“Repair” means the replacement of collar, foot rings, valves or repainting of LPG cylinders;

“Re-qualification” means the method or procedure by which an LPG cylinder is subjected to inspection and re-evaluation in accordance with the prescribed specifications and any other standards prescribed by the Kenya Bureau of Standards governing the method of requalification of cylinders for LPG to determine its acceptability for continuous use and distribution and subsequent repair or scrapping where appropriate;

“Retail” means a form of distribution of LPG whether by reticulated systems or in cylinders by which means the LPG is customarily sold to consumers other than for the purpose of resale;

“Reticulated piped gas system” supply of LPG through a network of pipes from a centralized storage vessel(s);

“Premises” include any –

(a) vehicle, vessel aircraft or hovercraft; or

(b) installation on land, foreshore or land intermittently covered by water, any offshore installation or any other installation whether floating, or resting on seabed or the subsoil, or resting on other land covered with water or the subsoil;

No. 1 of 2005

“Port of entry” means a place, whether on the coast or elsewhere, appointed by the Council by notice in the Gazette, subject to any limitations specified in the notice, to be a port for the purposes of the East African Community Customs Management Act, 2004;

Engineers Act No. 11 of 2012

“Professional engineer” An engineer registered to practice in Kenya by the Engineers Board of Kenya;

“**Scrappage**” means the destruction of defective cylinders declared by a revalidation centre to be unfit;

“**Seal**” means a cap placed on the valve of the cylinder for the purposes of preventing ingress of water or dust into the valve and for the purpose of identifying a legitimately re-filled LPG cylinder;

“**Standard capacity cylinder**” means a cylinder with a capacity of 1, 3, 6 or 13 kilograms fitted with a unified valve;

“**Unified valve**” means the valve type whose specifications conforms to the Kenya Standard KS 201:2010 for standard capacity LPG cylinders valves as approved by the National Standards Council of the Kenya Bureau of Standards; and

“**Wholesale**” means a form of distribution of LPG in bulk or in cylinders by which LPG is customarily sold for the purpose of resale.

3. These regulations shall not apply to the Kenya Defence Forces

Requirement for License for
LPG Business

4. (a) A person shall not undertake the business of import, export, storage, wholesale and transport of LPG in bulk except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) A person shall not undertake the business of filling, Storage, transport, wholesale and retail of LPG in cylinders except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents.

(c) A person who wishes to undertake LPG business shall make an application for a license to the Commission or its agents in the prescribed manner and as guided by the First Schedule.

(d) An application under (c) above shall be accompanied by the documents specified in the First Schedule and the fees set forth in the Fourth Schedule.

Determination of an application for LPG license

5. (a) The Commission may request for any such additional information as may be deemed necessary in the determination of a license application.

(b) Licenses for LPG businesses will be in the form set out in the Third Schedule.

Duration and renewal of licenses

6. (a) A license shall be valid for the period specified in the Act

(b) An application for renewal of license shall be made in the form set forth in the Second Schedule and such an application should be made at least thirty (30) days prior to the expiry of such a license.

(c) The application in (b) above shall be accompanied by the documents specified in the Second Schedule and the fees set forth in the Fourth Schedule.

(d) Any application for renewal of license after the period prescribed in (b) above shall attract a penalty of 20% of the license fee.

Importation of LPG in Bulk

7. (a) A person shall not undertake the importation of LPG in bulk except in accordance with terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) An application for license for import of LPG in bulk shall meet the criteria set forth in the First Schedule.

(c) A person licensed to import LPG into Kenya shall only do so through the gazzeted import routes by the Kenya Revenue Authority.

(d) A person licensed to import LPG in bulk shall submit to the Commission the following information with respect to the preceding month on or before the 10th day of each calendar month:

- i. Total quantity in metric tons of bulk LPG imported;
- ii. The source of the imports in (i) above;
- iii. The total quantity in metric tons of bulk LPG sold in the local market;
- iv. The total quantity in metric tons of bulk LPG sold in the export market;
- v. List of bulk sales to customers indicating quantity in kilograms, dates and places of delivery.
- vi. In case the sales include LPG in cylinders, the importer shall declare the total LPG filled in the cylinders for the specified period.

(e) A person licensed to import LPG in bulk shall not offer for sale, or part with possession of bulk LPG to any person unless such a person is in possession of a valid bulk LPG license issued under the Act or to a consumer for their own use.

(f) Where bulk LPG is sold to an own use customer, it shall be the duty of the LPG importer to terminate further supply of LPG to that customer where there is evidence of refilling of LPG into cylinders or further trade in the LPG supplied without the requisite license from the Commission.

(g) A person who contravenes sub-regulations (c), (d), (e) and/or (f) above shall be liable to the fine set forth in the Fifth Schedule.

8. (a) A person shall not undertake the storage of LPG in bulk except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) Prior to putting up a storage facility, the developer shall be required to obtain a construction permit from the Commission.

(c) An application letter for a construction permit for a LPG storage facility shall give the following details: -

- i. Legal capacity of the proponent;
- ii. Exact location of the site including land registration number;
- iii. Capacity of the storage facility; and
- iv. The scope of the project.

(d) The application in Regulation 8(c) above shall be accompanied by (but not limited to) the following documents: -

- i. Business registration documents of the proponent;
- ii. Identification documents of the directors or owners of the LPG development project;
- iii. Economic model of the LPG storage facility with justification of its viability;
- iv. Copy of title deed in the name of the owner(s) or a duly executed and registered lease agreement of not less than ten (10) years;
- v. Environmental Impact Assessment (EIA) license from the National Environment Management Authority;

- vi. Development approval from the respective County Government with jurisdiction over the subject land;
- vii. Construction shall be prohibited where the land encroaches a power line, class A and B road, a railway or a petroleum pipeline wayleave/ right of way or under a designated flight path;
- viii. Evidence of compliance to the Physical Planning Act or any other legislation on the regulation spatial planning in Kenya and the subject County;
- ix. Detailed design drawings of the LPG storage tank(s) from the manufacturer whose suitability for use shall be endorsed by a professional mechanical engineer;
- x. Detailed design drawings for the tank saddle, drainage, gas traps done and or approved by a professional civil engineer;
- xi. Detailed designs for the firefighting equipment and systems done by a professional engineer and approved by a Fire Safety Expert approved by DOSHS; and
- xii. Designs in 8(d)(xi) above shall be accompanied by a write up and calculations showing adequacy of the designs for prevention of BLEVE.

(e) An application for a bulk LPG storage facility license shall meet the criteria set forth in the First Schedule.

(f) Where LPG is stored in bulk in more than one facility, a separate license shall be obtained for each facility.

Own use storage of LPG in bulk

9. (a) Prior to putting up an own use bulk LPG storage facility, the owner shall be required to obtain a construction permit from the Commission.

(b) An application letter for a construction permit for an own use LPG storage facility shall give the following details: -

- i. Legal capacity of the proponent;
- ii. Exact location of the site including land registration number;
- iii. Capacity of the storage facility; and
- iv. The scope of the project.

(c) The application in Regulation 9(b) above shall be accompanied by (but not limited to) the following documents: -

- i. Business registration documents of the proponent;
- ii. Identification documents of the directors or owners of the LPG development project;
- iii. Justification for the LPG storage facility;
- iv. Copy of title deed in the name of the owner(s) or a duly executed and registered lease agreement of not less than ten (10) years;
- v. Environmental Impact Assessment (EIA) license from the National Environment Management Authority;
- vi. Development approval from the respective County Government with jurisdiction over the subject land;
- vii. Detailed design drawings of the LPG storage tank(s) and associated pipework shall be endorsed by a professional mechanical engineer; and
- viii. An above ground storage vessel shall have a minimum space of 15 meters from any building and a mounded or

underground storage vessel shall have a minimum of 5 meters from the foot of any building.

Obligations of the operator or owner of a LPG storage facility

10. (a) The owner or operator of a bulk LPG storage facility shall not load to or discharge LPG from unlicensed LPG bulk transport vehicles.

(b) The owner or operator of a bulk LPG storage facility shall not allow LPG bulk transport vehicles to be driven into his facility by a driver who is not in possession of a valid certification as a petroleum tanker driver.

Acquisition of new LPG cylinders and valves

KS 201:2010

11. (a) A person shall not acquire standard capacity LPG cylinders and valves for use in Kenya if the cylinders and the valves do not conform to the Kenya standards.

(b) All new cylinders acquired shall be declared to the Commission not later than two (2) calendar months of such acquisition.

(c) The declaration in 11 (b) above shall include:

- i. The capacities and number of LPG cylinders imported or manufactured locally;
- ii. The landed cost of the cylinders inclusive of all taxes for imported cylinders or ex-factory cost inclusive of all applicable taxes for locally manufactured cylinders;
- iii. The manufacturer's name and the country of origin of the cylinders; and
- iv. Serial number for each cylinder.

(d) A person who contravenes sub-regulation 11 (a) above shall be liable to fines set forth in the Fifth Schedule.

Filling of LPG into cylinders

12. (a) A person shall not undertake filling of LPG into cylinders except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) An application for license to fill LPG into cylinders shall meet the criteria set forth in the First Schedule.

(c) A person shall not fill LPG into cylinders unless they are the brand owner or they have authority of the cylinder brand owner through a written contract or similar instrument and whose copy shall be deposited with the Commission.

(d) A person licensed to fill LPG into cylinders shall not fill LPG into cylinders that do not conform to KS 06 - 896.

(e) The licensee in Regulation 12(a) above shall ensure that all filled cylinders:

- i. Have accurate net weights indicated on the body of the cylinder;
- ii. Are fitted with an appropriate seal;
- iii. Using appropriate technology, keep records by unique serial numbers, capacities and net weights; and
- iv. Have appended on the body of the cylinder relevant and legible safety message as shown in the Sixth Schedule.

Prohibition against unauthorized refilling

13. The following acts shall constitute unauthorized refilling and any person who commits these acts shall be liable to fines set forth in the Fifth Schedule:

- i. Refilling of LPG cylinders by a person or entity other than the rightful brand owner thereof, unless an express permission is granted by the brand owner for such

- refilling as evidenced by a written contract or similar instrument deposited at the Commission;
- ii. Refilling of LPG cylinders without the embossed markings or other indication of the brand or trade name thereof, or bearing defaced, tampered or illegible markings;
 - iii. Refilling of LPG cylinders due for repair, requalification or scrappage;
 - iv. Refilling of LPG cylinders directly from a bulk LPG road tank truck;
 - v. Decanting LPG from one LPG cylinder to another;
 - vi. Refilling of LPG cylinders other than in LPG refilling plants licensed by the Commission;
 - vii. Refilling of LPG cylinders with products or substances other than LPG in an effort to achieve the correct net weight;
 - viii. Refilling of LPG cylinders with LPG that does not meet the Kenya Standard;
 - ix. Possession of cylinder seals bearing similar markings to another competitor's brand without the express authority of that cylinder brand owner through a written contract or similar instrument deposited with the Commission;
 - x. Release of filled LPG cylinders into the market without seals; and
 - xi. Trading in filled LPG cylinders belonging to another brand owner without the express authority of the cylinder

brand owner through a written contract or similar instrument deposited at the Commission.

Prohibition against damage of competitor's cylinders

14. The following acts which are performed without the express authority of the brand owner shall constitute willful damage of that brand owner's cylinder(s) and any person who commits these acts shall be liable to fines set forth in the Fifth Schedule:

- i. Altering the brand name, symbol or any marking on the cylinder that identifies the brand of the cylinder;
- ii. Defacing or damaging the appearance of the cylinder with the intention of damaging the reputation of the cylinder brand;
- iii. Removal and or replacement of valves and safety relief valves;
- iv. Scrappage of empty cylinder(s) belonging to another brand owner; and
- v. Any form of repair or submitting for maintenance a cylinder belonging to another brand owner.

Transport of LPG in Bulk

15. (a) A person shall not undertake transport of bulk LPG by road, except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) An application for a license to transport LPG in bulk shall meet the criteria set forth in the First Schedule.

(c) A person licensed to transport LPG in bulk shall not permit any of their road transport vehicles to load from or discharge LPG into a LPG bulk storage facility that does not possess a valid storage license under these Regulations where such a facility is not an end consumer.

(d) A person who contravenes sub-regulation (c) above commits an offence and shall be liable to the fine set forth in the Fifth Schedule.

Transport of LPG in cylinders

16. (a) A person shall not transport more than three (3) filled LPG cylinders to a maximum combined weight of fifty (50) kilograms by road, except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) An application for a license to transport LPG in cylinders by road shall meet the criteria set forth in the First Schedule.

(c) A person licensed to transport LPG cylinders by road shall not permit any of their road transport vehicles to load from or off-load to a non-licensed storage filling facility, wholesaler or retailer.

(d) LPG cylinders road transport vehicles shall be in possession of a minimum of two (2) of 9 Kg capacity and fully serviced dry powder fire extinguishers one (1) fitted on either side of the vehicle.

KS 09 PART 2

(e) In any case transportation of LPG in cylinders must comply with the Kenya Standards as set by the Kenya Bureau of Standards

Wholesale distribution of LPG in Cylinders.

17. (a) A person shall not undertake the business of wholesale distribution of LPG in cylinders except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) An application for license for wholesale distribution of LPG in cylinders shall meet the criteria set forth in the First Schedule.

(c) A person shall not undertake wholesale distribution of LPG cylinders without the express authority of the cylinder brand

owner through a written contract or similar instrument deposited at the Commission.

(d) A person licensed to undertake wholesale distribution of LPG in cylinders shall not distribute LPG in cylinders that do not conform to KS 06 - 896.

(e) A person licensed to undertake wholesale distribution of LPG in cylinders shall maintain a record of all the LPG cylinders purchased and sold.

(f) The records in 17(e) shall contain at the minimum the following information and shall be maintained for a period of not less than 365 days:

- i. The serial number of each cylinder
- ii. The brand of each cylinder
- iii. Date of purchase of each cylinder
- iv. The name of the business entity from which the cylinders were bought
- v. Date of resale of each cylinder
- vi. The name of the retail distributor to which the cylinders were sold
- vii. The net weight of each cylinder sold

(g) A person who contravenes this Regulation commits an offence and will be liable to the fine set forth in the Fifth Schedule.

Retail of LPG in Cylinders. 18. (a) A person shall not undertake the business of retail distribution of LPG in cylinders except in accordance with the

terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) An application for license for retail distribution of LPG in cylinders shall meet the criteria set forth in the First Schedule.

(c) A person shall not undertake the business of retail distribution of LPG cylinders without the express authority of the cylinder brand owner through a written contract or similar instrument.

(d) A person shall not stock, display or offer for retail LPG in cylinders that do not comply with KS 06 - 896.

(e) A person licensed to undertake the business of retail distribution of LPG in cylinders shall issue consumers with a receipt that shall have the following information at minimum:-

- i. the name, address and telephone number of the retailer
- ii. the name and telephone number of the consumer
- iii. the date of the sale
- iv. the brand of the cylinder sold
- v. the serial number of the cylinder sold
- vi. the net weight in kilograms of the cylinder sold
- vii. the unit and total price of the transaction

(f) A person who being an LPG cylinder retail distributor who contravenes this Regulation commits an offence and is liable to the fines set forth in the Fifth Schedule.

Exportation of LPG in cylinders

19. (a) A person shall not undertake the exportation of LPG in cylinders except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents

(b) A person who wishes to export of LPG in cylinders shall obtain express authority of the LPG cylinder brand owner through a written contract or similar instrument.

Obligations of the Cylinder Brand Owner

KS 06 - 896

20. (a) Every brand owner shall ensure that all their LPG cylinders are in a good state of repair and are re-qualified in accordance with the applicable Kenya Standard.

(b) Brand owners shall maintain a list of their authorized LPG fillers, wholesalers and retailers

(c) Brand owners shall maintain records of the serial numbers and date of re-qualification of all cylinders whether filled by it or on its behalf on hospitality basis by a person licensed to fill LPG into cylinders.

(d) Brand owners shall maintain the serial numbers and date of sale of all cylinders delivered to their authorized wholesale distributors.

(e) Brand owner shall provide training and information to their approved cylinder fillers, wholesale distributors and retailers on the safe storage and handling of LPG.

(f) Brand owners shall ensure that their cylinders are affixed with a notice informing consumers on the safe use, storage and handling of LPG cylinders.

(g) A brand owner shall obtain an appropriate insurance against injuries to consumers or third parties caused by faulty LPG cylinders.

(h) A brand owner who contravenes the above obligations commits an offence and is liable to the fine set out in the Fifth Schedule.

Reticulation of LPG in residential and Commercial buildings

21. (a) A person shall not undertake the business of reticulation of LPG in commercial or residential buildings except in accordance with the terms and conditions of a valid license issued under the Act by the Commission or its agents.

(b) An application for license for reticulation of LPG in commercial or residential buildings shall meet the criteria set forth in the First Schedule.

KS 1938: 2015 PART 6

(c) Provided that the storage tanks, pipes and any other fittings shall conform to the provisions of the relevant Kenya Standards as set by the Kenya Bureau of Standards.

KS 1938: 2015 PART 3

(d) Where there are space constraints, mounded storage tanks shall be utilized provided they follow the applicable Kenya Standards.

(e) It shall be the duty of the owner/operator of reticulated LPG systems to acquire, maintain and safeguard wayleaves or right of ways where the pipework for LPG distributions will pass.

(f) Any designs for the installations of reticulated LPG systems shall be done by a professional engineer conversant with LPG systems.

Cap. 513

(g) The unit of sale for the LPG consumed by end customers shall be in SI kilograms.

Cap. 513

(h) Where measurement is done in volumes, then a suitable conversion at 15°C shall be undertaken provided this is approved by the Department of Weights and Measures or any such body established to deal in legal metrology.

(i) An operator of reticulated LPG systems shall maintain an accident/ incident register and a customer complaints register.

(j) The registers in (i) above together with completed investigation reports shall be filed with the Commission at the anniversary of every licence renewal.

(k) Where the reticulated system serves more than a hundred (100) housing units, the operator shall have a permanent shift of staff at site.

(l) The operator of the LPG reticulated system shall maintain a separate Service Contract for each served unit.

(m) The Service Contract shall contain at minimum the following items:

- i. The name, address and telephone number of the operator and the unit owner/ occupier;
- ii. Responsibilities of either party and clearly indicating boundaries along the service lines/pipes;
- iii. Emergency procedures and contacts;
- iv. Billing system, address, mode of payments and billing period;
- v. Total Cost of Service which shall clearly be categorized into the selling price of the product per kilogram, the amortized cost of the infrastructure and operations & maintenance cost;
- vi. Requirement for either party to give notice for termination of service, increase of any component of Total Cost of Service and un-availability of service due to scheduled maintenance;

vii. Complaints, dispute resolution procedures and mechanisms; and

viii. Service level agreement

(n) The operator of the LPG reticulated system shall maintain a record of all deliveries for the product delivered at the site.

(o) The operator of the LPG reticulated system shall maintain a record of all deliveries for the product delivered at the site which shall contain a minimum of the following:

i. Time and date of delivery;

ii. Registration number of the vehicle;

iii. Name and licence number of the supplier; and

iv. Quantity delivered.

Powers of inspection

22. (a) The Commission or any person authorized by it in writing may enter into and inspect any vehicle, premises, facility or installation suspected of engaging in LPG business for the purpose of ascertaining compliance with these regulations.

(b) A person who hinders or obstructs the Commission or any person acting on its behalf in the course of their duty under the provisions of sub-regulation (a) above commits an offence and shall be liable to the fine set forth in the Fifth Schedule.

Reporting of accidents and incidents

23. (a) A person licensed to undertake LPG business shall notify the Commission in writing of any accident or incident causing loss of life, personal injury, damage to property, damage to the environment, explosion, spill, fire or other incident or accident immediately and in any case not more than 48 hours after the occurrence of such an accident or incident.

(b) The brand owner shall have the responsibility of reporting and investigating any accident that involves his brand of LPG cylinder.

(b) A person licensed to undertake LPG business who fails to inform the Commission of an accident or incident in accordance with Regulation 23 (a) above commits an offence and shall be liable to the fine set forth in the Fifth Schedule.

Investigation of Accidents
and Incidents

24. (a) A person licensed to undertake LPG business shall conduct thorough investigations of any accident or incident occurring with respect to licensed activities and shall within not more than 14 days from the date of the accident or incident furnish the Commission with a report detailing and not limited to:

- i. The causes of the accident or incident;
- ii. The effects of the accident or incident;
- iii. The proposed measures to be taken to remedy the effects of the accident or incident;
- iv. Proposed corrective actions that will be implemented to stop recurrence of such an accident or incident, and

- v. Proposed timelines for effecting the actions in (iii) and (iv) above.
- (b) The Commission shall review the report in paragraph (a) above and shall within 14 days:-
- i. Accept the report together with the proposals including timelines contained therein; or
 - ii. Request for adjustments to the report; or
 - iii. Reject the report giving reasons for such rejection, and require another report to be filed.

Mutual Cylinder Exchange Agreement

25. (a) LPG cylinder brand owners may enter into a Mutual LPG Exchange Agreement to enhance their access to the LPG cylinder market.

(b) Parties to the any such Mutual LPG Cylinder Exchange Agreements shall consist of only licensed LPG cylinder brand owners trading in standard capacity cylinders.

(c) Relationship between parties to a Mutual LPG Exchange Agreement shall be governed by such clauses as contained therein and which shall be deposited with the Commission.

(d) Provided that the Agreement in 25 (c) shall not contain discriminative clauses against any member who complies with the requirements.

Non- discrimination of a party to the LPG Cylinder Exchange Agreement

26. The Management and members of a Mutual LPG Cylinder Exchange group shall treat all members equally and shall not discriminate against any member of the group.

Cylinder Exchange Points

27. (a) Provided there exists no hospitality arrangement, no brand owner shall be allowed to store or keep a competitor's cylinder whether filled or empty in their premises other than in designated Cylinder Exchange Points.

(b) Rules and procedures for the operation of the Cylinder Exchange Points shall be contained in the Mutual LPG Cylinder Exchange Agreement.

(c) The financing of the cylinder exchange points will be borne by the parties Mutual LPG Cylinder Exchange Agreement.

Refund of LPG Cylinder deposits to consumers

28. (a) LPG cylinders shall remain the property of the respective brand owners who may lease it to the consumers for use upon payment of a re-fundable cylinder deposit.

(b) A consumer who returns a LPG cylinder to a brand owner reserves the right to access the full cylinder deposit paid during the acquisition of such a cylinder.

(c) To access the full cylinder deposit, a consumer will be required to surrender an empty LPG cylinder to the brand owner's premises or distribution point.

(d) A Brand Owner shall be required to maintain a separate book of accounts in respect to collected cylinder deposits.

(e) The book of accounts in 28 (d) above shall form part of audited annual accounts for the company and shall be disclosed to the Commission on application for renewal of a Brand Owner's license.

Caretaker Brand Owner

29. (a) Where a licensed Brand Owner has failed to renew the operating license for more than three (3) calendar months or has failed to meet its obligations to the Consumer, the Commission may appoint a care taker Brand Owner to facilitate collection of cylinders from market and refill.

(b) Care taker brand owner in 29 (a) shall be appointed by the Commission through a public invitation for expression of interest and may be shortlisted upon satisfying the following:

- i. Be in possession of more than 100,000 cylinders in circulation;
- ii. Not having violated the requirements of the Act and its regulations in the last two (2) years;
- iii. Provide proof of financial capacity to maintain the distressed brand owner's cylinders as and when they fall due;
- iv. Be owner of a licensed LPG filling plant; and
- v. Have the capacity fill the additional cylinders as and when presented for re-fill by customers.

(b) Where the Brand Owner fails to renew their license for more than 365 days after expiry, the care taker Brand Owner shall with the authority of the Commission rebrand the cylinders and take full responsibility of the cylinders including paying for the agreed value of LPG cylinder deposit.

(c) Provided that the cylinders do not form part of lien to any other third party or is not subject of an ongoing ownership dispute in a court of law, the care taker brand owner may operate the brand as if he were the owner.

(d) The care taker brand owner shall have the cylinders revalidated and repaired as and when they fall due.

(e) The distressed Brand owner's assets shall form part of the security for the exchange deposit.

Penalties and fines thereof 30. (a) Any penalty, fine, fee, expenses or other moneys recoverable under these regulations or a license, the recovery of which is not otherwise specifically provided for, shall be a civil debt recoverable summarily.

(b) The fines imposed under these regulations shall be in addition to and shall not discharge the affected party of any liabilities in respect of payment of compensation or in the case of a licensee, the revocation of the license.

(c) The Commission Penalties and fines set forth in the Fifth Schedule shall be determined by the Commission

Appeals

31. Any person who is dissatisfied with a decision of the Commission under these regulations may appeal to Energy Tribunal.

General penalty

32. Where any default in or contravention of any of the provisions of these Regulations is made for which no fine or penalty is expressly stated, the person so defaulting or contravening shall, on conviction, be liable to a fine not exceeding 1,000,000 Kenya Shillings.

Transitional clauses

33. To ensure smooth transition from LN121/2009, the transitional clauses specified in the Sixth Schedule shall be applicable for the period stated therein.

Repeal of the Energy
(Liquefied Petroleum Gas)
Regulations, 2009 –
LN121/2009 under No. 12 of
2006

34. The Energy (Liquefied Petroleum Gas) Regulations, 2009 are hereby repealed.

FIRST SCHEDULE: REQUIREMENTS FOR APPLICATION OF A NEW LICENSE

I. REQUIREMENTS for Import, Export and Wholesale of LPG in bulk

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate.
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors.
5. Scanned original copy of a valid Single Business Permit from the respective County Government.
6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of a valid tax compliance certificate from KRA;
8. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
9. Proof of access to a licensed storage facility through either:
 - a. Ownership of a licensed LPG storage facility or a long term lease (minimum 5 years); or
 - b. Valid hospitality agreement with a licensed LPG Storage facility.
10. Proof of presence in the market by either:
 - a. Throughput of at least 2,000 metric tons per annum; OR
 - b. Ownership of a licensed LPG cylinder brand.

II. REQUIREMENTS for Wholesale and Export of LPG in bulk

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
5. Scanned original copy of a valid Single Business Permit from the respective County Government;
6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of valid tax compliance certificate from KRA;
8. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
9. Proof of access to supply of LPG by either of the following:
 - a. Being a holder of a valid Import of LPG license; or
 - b. Supply agreement with a holder of a valid Import of LPG license.

III. REQUIREMENTS for Storage and Wholesale of LPG in Cylinders

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors.
5. Scanned original copy of Single Business Permit from the respective County Government;

6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of valid tax compliance certificate from KRA.
8. Scanned original copy of Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
9. Weighing scale *Calibration Certificate* from the Department of Weights and Measures.
10. Proof of authority to trade in the LPG cylinder brand by providing
 - a. Scanned copy of original Trade Mark registration certificate; or
 - b. A valid copy of distributorship agreement from a LPG Cylinder brand owner(s)
11. Requirement for safe premises:
 - a. Proof of ownership or lease of a yard or warehouse
 - b. Valid *Fire certificate* for the above premises
12. Copy of *Customer Complaint Handling Procedures* in compliance to LN 49/2012

IV. REQUIREMENTS for Storage and Retail of LPG in Cylinders

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
5. Scanned original copy of Single Business Permit from the respective County Government;
6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of valid tax compliance certificate from KRA;
8. Scanned original copy of Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
9. Weighing scale *Calibration Certificate* from the Weights and Measures Department
10. Requirement for safe premises:
 - a. Retail facility conforming to the relevant Kenya Standards; and
 - b. Valid *fire certificate* for the above premises
11. Copy of *Customer Complaint Handling Procedures* in compliance to LN 49/2012

V. REQUIREMENTS for licence to be an LPG Cylinder Brand Owner

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
5. Scanned original copy of Single Business Permit from the respective County Government;
6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of valid tax compliance certificate from KRA;

8. Scanned original copy of Work permit/Entry Permit Class “H” for foreign directors working in Kenya.
9. Scanned copy of original Trade Mark registration certificate
10. Certificate of *Compliance* to the Kenya Standards KS 201:2010 by KEBS
11. Proof of ownership of LPG cylinders for the retail market in the standard capacities by providing either:
 - a. Uniform capacities in any of the 1, 3, 6 and 13 Kg totaling to a minimum of 30,000 LPG cylinders; or
 - b. A combination of any of the capacities in 10(i) totaling to a minimum of 30,000 LPG cylinders.
12. Inventory of all acquired cylinder listed by:
 - (i) Serial numbers; and
 - (ii) Cylinder capacities
 - (iii) Landed or ex-factory cost inclusive of all taxes
13. Valid insurance policy against injuries to customer(s) and third parties related to faulty LPG cylinder
14. Copy of *Customer Complaint Handling Procedures* in compliance to LN 49/2012

VI. REQUIREMENTS for Transport of LPG in Bulk

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
5. Scanned original copy of Single Business Permit from respective County Government;
6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of valid tax compliance certificate from KRA;
8. Scanned original copy of Work permit/Entry Permit Class “H” for foreign directors working in Kenya.
9. Transport agreement with a holder of valid license for:
 - a. Import, Export and Wholesale of LPG in bulk; or
 - b. Wholesale and Export of LPG in Bulk.
10. A valid certificate of calibration for the LPG tank mounted on each vehicle
11. A comprehensive emergency preparedness and response plan in compliance with Legal Notice No. 8 of 2014
12. *Certificate of Compliance* to the relevant Kenya Standard(s) for the tanker
13. Fire certificate from the *Chief Fire Officer* of the respective county
14. A valid *Report on Examination* for LPG tank mounted on each vehicle/trailer
15. A valid *Motor Vehicle Inspection* certificate for each prime mover and trailer
16. Proof of fitting all the vehicles with a GPS enabled tracking system accessible to the Commission via a web-based portal.

17. Log books for each prime mover and trailer. The log books shall be in the name of the applicant and in absence of such, the applicant shall provide valid lease agreements with the truck owners.
18. Valid *Medical Report* certificate for drivers from *Designated Health Practitioners* as per Occupational Health and Safety Act 2007
19. A valid driving license for each driver.
20. Proof of attendance of a defensive driving course for each driver
21. A valid certificate for each driver in compliance with Legal Notice No. 8 of 2014.
22. A valid permit for each tanker in compliance with Legal Notice No. 8 of 2014
23. Proof of access to a suitable parking yard by providing either:
 - a. Ownership of a dedicated parking yard; or
 - b. Long term lease (minimum 1 year) for a parking yard.

VII. REQUIREMENTS for Transport of LPG in Cylinders

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
5. Scanned original copy of Single Business Permit from the respective County Government;
6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of valid tax compliance certificate from KRA;
8. Scanned original copy of Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
9. Scanned copy of a valid *Transport Agreement* with a holder of valid license of *Wholesale and Export of LPG in Cylinders*
10. A comprehensive emergency preparedness and response plan in compliance to Legal Notice No. 8 of 2014.
11. *Certificate of Compliance* to the relevant Kenya Standard(s) for transport vehicle.
12. Fire certificate from the *Chief Fire Officer* of the respective county
13. Log books for the transport vehicle in the name of the applicant or a valid lease with the owner of the vehicle.
14. A valid *Motor Vehicle Inspection* certificate for the transport vehicle
15. Valid *Medical Report* certificate for drivers from *Designated Health Practitioners* as per Occupational Health and Safety Act 2007
16. A valid driving license for each driver
17. Proof of attendance of a defensive driving course for each driver
18. Proof of access to a suitable parking yard by submitting either:
 - a. Ownership of a dedicated parking yard; OR
 - b. Long term lease (minimum 3 years).

VIII. REQUIREMENTS for Storage of LPG in Bulk

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
5. Scanned original copy of Single Business Permit from the respective County Government;
6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of valid tax compliance certificate from KRA;
8. Scanned original copy of Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
9. Proof of control of a LPG storage facility by submitting either:
 - a. Ownership documents of a LPG storage facility; OR
 - b. Long term lease (minimum 5 years)
10. *Environmental Impact Assessment License* from NEMA
11. *Certificate of Compliance* with the Physical Planning Act of 1999
12. *Certificate of Compliance* with the requisite Kenya Standard(s) from KEBS
13. *Fire Certificate* from the respective County
14. A valid *Report of Examination* for LPG tanks in compliance with the OSHA 2007
15. A valid *Calibration Certificate* from the Department of Weights and Measures for each LPG vessel
16. Proof of access to a calibrated weighbridge by submitting either:
 - a. Ownership of a calibrated weighbridge; OR
 - b. Long term agreement on a calibrated weighbridge use (minimum 5 years)
17. A valid copy of *Certificate of Registration of Work Place* in compliance with the OSHA 2007
18. Proof of training of a minimum of four (4) employees involved in safe handling of LPG in a NITA approved institution.
19. Signed copy of the Emergency Response Plan for the Facility.

IX. REQUIREMENTS for Storage and Filling of LPG in Cylinders

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of certificate of incorporation/business registration certificate
3. Scanned original copy of CR 12 from registrar of companies which is not older than twelve (12) calendar months from the date of issue.
4. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
5. Scanned original copy of Single Business Permit from the respective County Government;
6. Scanned original copy of PIN/VAT Certificate from KRA.
7. Scanned original copy of valid tax compliance certificate from KRA;
8. Scanned original copy of Work permit/Entry Permit Class "H" for foreign directors working in Kenya
9. Proof of control of a LPG storage facility by submitting either:

- a. Ownership documents of a LPG storage facility; OR
- b. Long term lease (minimum 5 years).
- 10. *Environmental Impact Assessment* License from NEMA
- 11. *Certificate of Compliance* with the Physical Planning Act of 1999
- 12. *Certificate of Compliance* with the requisite Kenya Standard(s) from KEBS
- 13. *Fire Certificate* from the person responsible for fire safety in the respective County
- 14. A valid *Report on Examination* for LPG tanks in compliance with OSHA 2007
- 15. A valid *Calibration Certificate* from the Weights and Measures Department of each LPG vessel
- 16. A valid copy of *Certificate of Registration of Work Place* from DOSHS in compliance with OSHA 2007
- 17. Proof of training of a minimum of four (4) employees involved in the safe handling of LPG in a NITA approved institution
- 18. Proof of economic viability of the plant by submitting either:
 - a. Proof of ownership of at least 30,000 LPG cylinders of licensed own brand in either 1, 3, 6 or 13kg capacities; OR
 - b. Written contract to fill LPG in cylinders on behalf of a licensed brand owner with an assurance of allocated filling capacity of at least 30,000 LPG cylinders per annum.
- 19. Weighing scale *Calibration Certificate* from the Department of Weights and Measures.
- 20. Proof of access to a calibrated weighbridge by submitting either:
 - a. Ownership of a calibrated weighbridge; OR
 - b. Long term agreement on a calibrated weighbridge use (minimum 5 years)
- 21. Signed copy of the Emergency Response Plan for the Facility.
- 22. Copy of *Customer Complaint Handling Procedures* in compliance to LN 49/2012
- 23. Proof of installation of intrinsically safe non-obscured Closed Circuit Television (CCTV) cameras at the filling area with unlimited access to the Commission via a web-based portal.

X. REQUIREMENTS for License to Operate a reticulation LPG in residential or commercial settings

- 1. Completed application in the Regulatory Management Information System (RMIS) portal.
- 2. Scanned original copy of certificate of incorporation/business registration certificate
- 3. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
- 4. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
- 5. Scanned original copy of Single Business Permit from the respective County Government;
- 6. Scanned original copy of PIN/VAT Certificate from KRA.
- 7. Scanned original copy of valid tax compliance certificate from KRA;
- 8. Scanned original copy of Work permit/Entry Permit Class "H" for foreign directors for directors working in Kenya.
- 9. Proof of access to legal supply of LPG by submitting either:
 - a. A copy of a valid Import, Export and Wholesale of LPG license; or
 - b. Supply agreement with a holder of a valid Import, Export and Wholesale of LPG license.
- 10. *Environmental Impact Assessment* License from NEMA

11. *Certificate of Compliance* with the requisite Kenya Standard(s) from KEBS for the storage and pipe network
12. *Certificate of compliance with the building code.*
13. *Fire Certificate* from the person responsible for fire safety in the respective County
14. A valid *Report on Examination* for LPG tanks in compliance to the OSH ACT 2007
15. A valid *Calibration Certificate* from the Weights and Measures Department of each LPG vessel
16. A valid *Calibration Certificate* of the metering equipment to connected consumers

17. Signed copy of the Emergency Response Plan for the Facility.
18. Copy of *Customer Complaint Handling Procedures* in compliance to LN 49/2012

SECOND SCHEDULE: APPLICATION FOR RENEWAL OF A LICENSE

I. REQUIREMENTS for Import, Export and Wholesale of LPG in bulk

1. Completed application in the Regulatory Information Management System (RMIS) portal.
2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
3. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
4. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
5. Scanned original copy of a valid Single Business Permit from the respective County Government;
6. Scanned original copy of valid tax compliance certificate from KRA;
7. Proof of access to a licensed storage facility by submitting either:
 - a. Ownership documents of a licensed LPG storage facility or long term lease (minimum 5 years); or
 - b. Valid hospitality agreement with a licensed LPG Storage facility.
8. Proof of presence in the market by either:
 - a) Throughput of at least 2,000 metric tons per annum; OR
 - b) Ownership of a licensed LPG cylinder brand.
9. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics

II. REQUIREMENTS for Wholesale and Export of LPG in bulk

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
3. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
4. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
5. Scanned original copy of a valid Single Business Permit from the respective County Government;
6. Scanned original copy of valid tax compliance certificate from KRA;
7. Proof of access to supply of LPG by either of the following:
 - a. Being a holder of a valid Import of LPG license; or
 - b. Supply agreement with a holder of a valid Import of LPG license.
8. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics

III. REQUIREMENTS for Storage and Wholesale of LPG in Cylinders

1. Completed application in the Regulatory Management Information System (RMIS) portal.

2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
3. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
4. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
5. Scanned original copy of a valid Single Business Permit from the respective County Government;
6. Scanned original copy of a valid tax compliance certificate from KRA;
7. Weighing scale *Calibration Certificate* from the Weights and Measures Department
8. Proof of authority to trade in the LPG cylinder brand by providing:
 - a. Scanned copy of original Trade Mark registration certificate; and
 - b. A valid copy of distributorship agreement from a LPG Cylinder brand owner(s)
9. Requirement for safe premises:
 - a. Proof of ownership or lease of a yard or warehouse
 - b. Valid *Fire certificate* for the above premises
10. Proof of compliance with Corrective Action Plans given during audits.
11. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics
12. Submission of report on list of reported and resolved customer complaints in compliance to LN 49/2012

IV. REQUIREMENTS for Storage and Retail of LPG in Cylinders

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
3. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
4. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
5. Scanned original copy of a valid Single Business Permit from the respective County Government;
6. Scanned original copy of valid tax compliance certificate from KRA;
7. Weighing scale *Calibration Certificate* from the Weights and Measures Department
8. Requirement for safe premises:
 - a. Proof of ownership an approved LPG cage for retail
 - b. Valid *fire certificate* for the above premises
9. Proof of compliance with Corrective Action Plans given during audits.
10. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics (via online platform to ERC)

V. REQUIREMENTS for Transport of LPG in Bulk

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
3. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
4. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
5. Scanned original copy of a valid Single Business Permit from respective County Government;
6. Scanned original copy of valid tax compliance certificate from KRA;
7. Transport agreement with a holder of valid license for:
 - a. Import, Export and Wholesale of LPG in bulk; or
 - b. Wholesale and Export of LPG in Bulk.
8. A valid certificate of calibration for the LPG tank mounted on each vehicle
9. A comprehensive emergency preparedness and response plan in compliance with Legal Notice No. 8 of 2014
10. *Certificate of Compliance* to the relevant Kenya Standard(s) for the tanker
11. Fire certificate from the *Chief Fire Officer* of the respective county
12. A valid *Report on Examination* for LPG tank mounted on each vehicle/trailer
13. A valid *Motor Vehicle Inspection* certificate for each prime mover and trailer
14. Proof of fitting all the vehicles with a GPS enabled tracking system accessible to the Commission via a web- based portal.
15. Log books for each prime mover and trailer. The log books shall be in the name of the applicant and in absence of such, the applicant shall provide valid lease agreements with the truck owners.
16. Valid *Medical Report* certificate for drivers from *Designated Health Practitioners* as per Occupational Health and Safety Act 2007
17. A valid driving license for each driver.
18. Proof of attendance of a defensive driving course for each driver
19. A valid certificate for each driver in compliance with Legal Notice No. 8 of 2014.
20. A valid permit for each tanker in compliance with Legal Notice No. 8 of 2014
21. Proof of access to a suitable parking yard by providing either:
 - a. Ownership of a dedicated parking yard; or
 - b. Long term lease (minimum 1 year) for a parking yard.
22. Proof of compliance with Corrective Action Plans given during audits.
23. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics (via online platform to ERC)

VI. REQUIREMENTS for Transport of LPG in Cylinders

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;

3. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
4. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
5. Scanned original copy of a valid Single Business Permit from respective County Government;
6. Scanned original copy of valid tax compliance certificate from KRA;
7. Scanned copy of a valid *Transport Agreement* with a holder of valid license of *Wholesale and Export of LPG in Cylinders*
8. A comprehensive emergency preparedness and response plan in compliance to Legal Notice No. 8 of 2014.
9. *Certificate of Compliance* to the relevant Kenya Standard(s) for transport vehicle.
10. Fire certificate from the *Chief Fire Officer* of the respective county
11. Log books for the transport vehicle in the name of the applicant or a valid lease with the owner of the vehicle.
12. A valid *Motor Vehicle Inspection* certificate for the transport vehicle
13. Valid *Medical Report* certificate for drivers from *Designated Health Practitioners* as per Occupational Health and Safety Act 2007
14. A valid driving license for each driver
15. Proof of attendance of a defensive driving course for each driver.
16. Proof of access to a suitable parking yard by submitting either:
 - a. Ownership of a dedicated parking yard; OR
 - b. Long term lease (minimum 3 years).
17. Proof of compliance with Corrective Action Plans given during audits.

VII. REQUIREMENTS for Storage of LPG in Bulk

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
3. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
4. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
5. Scanned original copy of a valid Single Business Permit from respective County Government;
6. Scanned original copy of valid tax compliance certificate from KRA;
7. Proof of control of a LPG storage facility by submitting either:
 - a. Ownership documents of a LPG storage facility; OR
 - b. Long term lease (minimum 5 years)
8. Proof of *Submission of Annual Environmental Audit* to NEMA
9. *Fire Certificate* from the respective County
10. A valid *Report on Examination* for LPG tanks in compliance to the OSHA 2007
11. A valid *Calibration Certificate* from the Department of Weights and Measures for each LPG vessel
12. A valid copy of *Certificate of Registration of Work Place* from in compliance with the OSHA 2007.
13. Proof of training of a minimum of four (4) employees involved in the handling of LPG in a NITA approved institution
14. Proof of compliance with Corrective Action Plans given during audits.

15. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics (via online platform to ERC)

VIII. REQUIREMENTS for Storage of LPG in Bulk and Filling of LPG in Cylinders

1. Completed application in the Regulatory Management Information System (RMIS) portal.
2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
3. Scanned original copies of identification documents (National IDs or Passports) for all the directors;
4. Scanned original copy of a valid Work permit/Entry Permit Class "H" for foreign directors working in Kenya.
5. Scanned original copy of a valid Single Business Permit from respective County Government;
6. Scanned original copy of valid tax compliance certificate from KRA;
7. Proof of control of a LPG storage facility by submitting either:
 - a. Ownership documents of a LPG storage facility; OR
 - b. Long term lease (minimum 5 years).
8. Proof of *Submission of Annual Environmental Audit* to NEMA
9. *Fire Certificate* from the person responsible for fire safety in the respective County
10. A valid *Report on Examination* for LPG tanks in compliance to the OSH ACT 2007
11. A valid *Calibration Certificate* from the Weights and Measures Department of each LPG vessel
12. A valid copy of *Certificate of Registration of Work Place* from DOSHS
13. Proof of training of a minimum of four (4) employees involved in the handling of LPG in a NITA approved institution
14. Proof of economic viability of the plant by submitting either:
 - a. Ownership of at least 20,000 LPG cylinders of licensed own brand in the 2nd year of operation; 25,000 in the 3rd year of operation; up to a minimum of 30,000 in the 4th year of operation; OR
 - b. Written contract to fill LPG in cylinders on behalf of a licensed brand owner with an assurance of allocated filling capacity of at least 30,000 LPG cylinders per annum.
15. Weighing scale *Calibration Certificate* from the Department of Weights and Measures.
16. Proof of installation of intrinsically safe non-obscured Closed Circuit Television (CCTV) cameras at the filling area with unlimited access to the Commission via a web-based portal.
17. Proof of compliance with Corrective Action Plans given during audits.
18. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics
19. Submission of report on list of reported and resolved customer complaints in compliance to LN 49/2012

IX. REQUIREMENTS for License to Operate a reticulation LPG in residential or commercial settings

1. Completed application in the Regulatory Management Information System (RMIS) portal.

2. Scanned original copy of CR 12 from registrar of companies (not older than twelve (12) months) for Limited Companies;
3. Scanned original copy of a valid Single Business Permit from respective County Government;
4. Scanned original copy of valid tax compliance certificate from KRA;
5. Proof of access to legal supply of LPG by submitting either:
 - a. A copy of a valid Import, Export and Wholesale of LPG license; or
 - b. Supply agreement with a holder of a valid Import, Export and Wholesale of LPG license.
6. Proof of *Submission of Annual Environmental Audit* to NEMA
7. *Fire Certificate* from the person responsible for fire safety in the respective County
8. A valid *Report on Examination* for LPG tanks in compliance to the OSHA 2007
9. A valid *Calibration Certificate* from the Weights and Measures Department of each LPG vessel
10. A valid *Calibration Certificate* of the metering equipment to connected consumers
11. Proof of compliance with Corrective Action Plans given during audits.
12. Proof of compliance with Legal Notice No. 6 of 2014 on timely and accurate submission of required petroleum statistics
13. Submission of report on list of reported and resolved customer complaints in compliance to LN 49/2012

THIRD SCHEDULE: FORM OF LPG LICENSE



Serial No.:.....

THE ENERGY ACT, 2006

PETROLEUM BUSINESS LICENSE

License No. ERC/LPG/ _____

License is hereby granted to _____ of P.O. Box _____ to carry on the following petroleum businesses:

TYPE OF LPG BUSINESS

On premises situated at:

Plot No. : _____

Building : _____

Road : _____

Town/County : _____

License issue date : _____

License Expiry date : _____

(SEAL)

Signature: _____

Issued under the authority of the Director General

Energy Regulatory Commission

FOURTH SCHEDULE: APPLICABLE LICENSE FEES

TYPE OF LICENSE	NEW APPLICATION	RENEWAL APPLICATION
Import of LPG in Bulk	Kshs.20,000	Kshs.10,000
Export of LPG in Bulk	Kshs.8,000	Kshs.5,000
Wholesale of LPG in Bulk	Kshs.8,000	Kshs.5,000
Transport of LPG in Bulk	Kshs.10,000	Kshs.5,000
Storage of LPG in Bulk	Kshs.20,000	Kshs.10,000
Filling of LPG into Cylinders	Kshs.20,000	Kshs.10,000
Export of LPG in Cylinders	Kshs.10,000	Kshs.5,000
Wholesale Distribution of LPG in Cylinders	Kshs.8,000	Kshs.5,000
Retail Distribution of LPG in Cylinders	Kshs.5,000	Kshs.2,000

FIFTH SCHEDULE: OFFENCES, PENALTIES AND FINES

Offence	Penalty/Fine in Kenya Shillings
Import of LPG through undesignated routes	Kshs. 200,000
Non-submission of bulk LPG import data	Kshs. 100,000
Non-submission of LPG cylinders import data	Kshs. 100,000
Release of bulk LPG to facilities not licensed under these Regulations other than consumer sites	Kshs. 500,000
Unauthorized refilling of LPG cylinders	Kshs. 20,000 for each filled cylinder
Unauthorized possession of LPG seals without the cylinder brand owner's authority	Kshs. 20,000 for each seal
Failure by cylinder distributors to maintain mandatory records prescribed in these Regulations	Kshs. 50,000
Failure by and LPG licensee to comply with the obligations set forth in these regulations	Kshs. 100,000
Obstruction of inspection officers from the Commission or its agents	Kshs. 100,000 for each day the obstruction occurs
Failure to report an LPG related accident within the prescribed 48 hour period	Kshs. 100,000

SIXTH SCHEDULE: TRANSITIONAL CLAUSES

1. Once these regulations come into force, the existing LPG Cylinder Exchange Pool (the Pool) shall be dissolved in accordance with Clause 24 of the LPG Cylinder Exchange Pool Agreement signed by all the members.
2. For the purpose of smooth transition and maintenance of accurate information, the LPG Cylinder Exchange Pool Management Committee (the Pool) formed under LN 121/20009 shall remain in office for a maximum period of six (6) months from the date of coming into force of these regulations. Any attendant costs to the Pool during this period shall be borne by all members.
3. During the prescribed period, the Pool shall reconcile all cylinder exchange records and issue final invoices and debt status for each brand owner within four (4) calendar months. It shall be the duty of each brand owner to ensure accuracy of all the invoices determined by the Pool.
4. All cylinder brand owners shall declare to the Pool the number of competitors' cylinders in their possession within one (1) month of coming into force of these regulations and the Pool shall notify the owners within two (2) months of coming into force of these regulations.
5. All cylinder brand owners shall be required to collect their empty cylinders from competitors' premises within two (2) months of such notice.
6. Where a brand owner fails to collect the said cylinders within the specified period, the facility owner shall be at liberty to deliver to the said brandowner's facility and recover the attendant transport costs.
7. All debts incurred due to the Cylinder Exchange Pool as at the date of these regulations coming into force shall remain civil debts and shall be liable for payment by the debtors where no physical cylinder is available for exchange. Respective brand owners are at liberty to enter into commercial negotiations with their debtors.
8. All cylinder brand owners shall be required to take stock of their total cylinders at hand and in circulation and declare the same to the Commission within twelve (12) months of these regulations coming into force.
9. During the transition period the cylinder deposit value shall be set by the Commission based on the last six (6) months import/ manufacturing value inclusive of all applicable taxes. Thereafter, the brand owners shall determine their deposit value.
10. Renewal of a Brand Owner's licence shall be subject to clearing all outstanding debts accrued due to the exchange of LPG cylinders and the total amount due shall be as per the final invoice issued by the Pool in accordance with transition clause 3. Evidence of clearing such debts shall be a letter of confirmation of clearance of such debts from the Brand Owner to whom the debt is owed.
11. All brand owners shall within two (2) months of coming into force of these regulations declare to the Commission points where consumers can return empty cylinders. The return points shall be published in the Commission's website.

Pavel Robert Oimeke

Director General