



FLORIDA PROPANE GAS ASSOCIATION

February 28, 2008

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DEPT. OF COMMUNITY AFFAIRS
GENERAL COUNSEL'S OFFICE

Paula Ford
Florida Building Commission
2555 Shumard Oak Boulevard
Tallahassee, FL 32399

RE: Request for Declaratory Statement

Dear Ms. Ford:

Attached is a Request for Declaratory Statement submitted by the Florida Propane Gas Association on behalf of its members. FPGA is seeking an interpretation or clarification of the applicability of various compliance requirements provided in the Florida Building Code (the Code) with respect to propane (LP Gas) tanks, cylinders or containers being classified as a "structure" rather than "equipment or fixture".

Thank you for your assistance. Please let me know if I can provide additional information.

Sincerely,

G. David Rogers
Executive Vice President

DOA08-DEC-071
FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.

Paula P. Ford
Commission Clerk

DECLAR-DEC-071
FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.

**PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA BUILDING COMMISSION**

Paula P. Ford
Paula P. Ford
Commission Clerk
Date
3/4/08

The Florida Propane Gas Association (FPGA), petitions the Florida Building Commission (the Commission) for an interpretation of the applicability of various compliance requirements provided in the Florida Building Code (the Code) with respect to propane (LP gas) tanks, cylinders or containers being classified as a "structure" rather than "equipment or fixtures".

1. The name and address of the petitioner are:

Florida Propane Gas Association
214 South Monroe Street
Tallahassee, FL 32302

2. The name, address, and telephone and fax numbers of the person(s) authorized to receive notices and communications with respect to this petition are:

David Rogers
Executive Vice President
Florida Propane Gas Association
P.O. Box 11026
Tallahassee, FL 32302
(850) 681-0496 (p)
(850) 222-7892 (f)

David McPhillips
Chairman, FPGA Codes & Standards Committee
12207 N. 53rd Street
Tampa, FL. 33617
(813) 985-0262 (p)

FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.
Paula P. Ford
Commission Clerk
Date

Applicability

3. The FPGA is a non-profit corporation charged with advancing the methods of manufacture, distribution, utilization, sales and accounting employed in the propane industry and to increase the effectiveness of propane services for the mutual benefit of producers, distributors and users of propane. The majority of propane dealers sell, install, service and fill propane tanks, cylinders and containers. These business activities are directly or indirectly subject to the rules and regulations

promulgated by the Commission in the Code with respect to propane (LP gas) tanks, cylinders or containers being classified as "structures" rather than "equipment or fixtures". FPGA is of the opinion that propane tanks, cylinders or containers are not "structures" but are rather "equipment or fixtures".

4. It is important to note "structure" indicates a permanent installation, whereas most propane tanks, cylinders or containers are by design specification intended to be portable for relocation by the servicing supplier or in the event of any emergency situation.
5. In regard to the question as to whether or not a liquefied petroleum gas tank, cylinder or container are structures, the Florida Building Code, Section 202, defines pressure vessels, such as propane tanks, as "equipment or fixtures". There is no reference to pressure vessels in the definition of a "structure" which appears in the same section of the code.
6. Certain local building and permitting agencies have interpreted the Florida Building Code to define liquefied petroleum gas tanks, cylinders or containers as structures and applied FBC Section 1606.1.

Facts and Circumstances

7. The State of Florida regulates the liquefied petroleum gas industry through the Department of Agriculture and Consumer Services, (DACS) Division of Standards, Bureau of LP Gas Inspections. Chapter 527, F.S. "Sale of Liquefied Petroleum Gas" requires licensing, inspections and regulation of the industry. Chapter 5F-11 FAC "Liquefied Petroleum Gas Inspection" contains the adopted rules of the Department.
8. DACS Rule 5F-11.002 FAC "Standards of National Fire Protection Association Adopted" adopts NFPA standard number 58, "Liquefied Petroleum Gas Code". This national standard defines tanks, cylinders and containers as follows:

3.3.5 API-ASME Container (or Tank). A container constructed in accordance with the pressure vessel code jointly developed by the American Petroleum Institute and the American Society of Mechanical Engineers.

3.3.14 Container. Any vessel, including cylinders, tanks, portable tanks, and cargo tanks, used for the transporting or storing of LP-Gases.

3.3.17 Cylinder. A container constructed in accordance with U.S. Department of Transportation specifications, Title 49, Code of Federal Regulations.

3.3.55 Portable Container. A container designed to be moved readily, as opposed to a container designed for stationary installations.

3.3.56 Portable Storage Container. A container that is designed and constructed to be moved over a highway from one usage location to another.

3.3.57 Portable Tank (or Skid Tank). A container of more than 1000-lb (4554-kg) water capacity that is mounted on skids or runners, is equipped with protected container appurtenances, and is used to transport LP-Gas.

3.3.71 Universal Cylinder. A cylinder that can be connected for service in either the vertical or the horizontal position, so that the fixed maximum liquid level gauge, pressure relief device, and fixed maximum liquid level gauge, pressure relief device, and withdrawal appurtenances function properly in either position.

9. The Florida Building Code is silent on the installation of LP gas containers, as this is strictly under the jurisdiction of Chapter 527, Florida Statutes. In fact, Section 553.85, Florida Statutes, states that “The provisions of the Florida Building Code for the design, construction, location, installation, services and operation of equipment for storing, handling, transporting and utilization of liquefied petroleum gases **shall not be in conflict** with chapter 527”.

Recommended Action

10. Given that there is inconsistency code interpretation of the Florida Building Code regarding liquefied petroleum tanks, cylinders or containers being classified as a “structure” rather than “equipment or fixture”, FPGA believes that it is reasonable to request a declaratory statement for an interpretation of the Florida Building Code.
11. The Florida Propane Gas Association, on behalf of its member companies, request the Commission act favorably on this petition and issue a Declaratory Statement that interprets or clarifies the intent of the Florida Building Code with respect to LP gas tanks, cylinders or containers.

Please advise if you need additional information regarding the request.

Respectfully submitted,

G. David Rogers
Executive Vice President
Florida Propane Gas Association
PO Box 11026
Tallahassee, FL. 32302