

Incorporation in Regulations of the Current Versions of NFPA 58 and 59**Advisory Committee Action: Information***Contact: Mike Israni*Purpose of Current Evaluation

The current evaluation is examining potential conflicts between Part 192 and NFPA 58 and 59. PHMSA intends to use results from this evaluation to inform the decision on which requirements in Part 192 are more appropriate for governing the safety of LPG facilities, thereby allowing appropriate reference in the Code of the latest editions of the NFPA Standards.

Current Status of Regulatory Reference:

The 2004 editions of both NFPA 58 and 59 are incorporated by reference in PHMSA pipeline safety regulations. Part 192.11 requires LPG plants and pipeline systems to follow requirements in both Part 192 and relevant standards. NFPA 58, “Liquefied Petroleum Gas Code” governs use of LPG, including non-pipeline uses; NFPA 59, “Utility LP-Gas Plant Code” governs utility gas plants using LPG for peak shaving.

Background:

The 2008 versions of the NFPA Standards were not adopted in August 2010 standards update rule for the following reasons:

- NFPA 58-2008 has lesser requirements for odorization; distribution valve maintenance; operation and maintenance, emergency, and public awareness planning
- NFPA 58-2008 not applicable retroactively
- NFPA 59-2008 not consistent with scope of pipeline facilities subject to regulation (192.1(b)(5)) and corrosion control requirements

The current version of Part 192.11(c) specifies that NFPA 58 and 59 prevail in event of conflict with 192. If the 2008 editions of the Standards had been adopted, this primacy would have resulted in the lesser requirements cited above taking precedence over requirements in Part 192.

Primacy of standards in PHMSA regulations is unusual; regulations usually prevail. In the standards update NPRM, PHMSA proposed revising 192.11(c) to provide that requirements of 192 would prevail. Industry objected to this change in primacy saying it represented a substantive change that needs technical justification. Based on these objections PHMSA withdrew the proposed change specifying the primacy of Part 192.

Status:

PHMSA is currently working with NFPA and AGA to identify and address potentially conflicting requirements in the standards. We are considering two options for dealing with primacy issue:

- Address conflicts specifically in the regulations – establish prevalence case-by-case

- Identify unique scope for standards and 192 – avoid conflict by avoiding dual requirements

In any options, PHMSA must be convinced of technical adequacy of the standards to assure public safety.

Path Forward:

PHMSA intends to separate the discussion and rulemaking activities addressing NFPA 58 and 59. Because it addresses several of PHMSA's needs, we expect to focus next rulemaking on the 2012 edition of NFPA 59. We are considering use of an approach in which clearly "superior" requirements from Part 192 will be adopted only for operations and maintenance.