

PI-76-0106

May 28, 1976

Honorable Lawton Chiles  
United States Senate  
Federal Building  
Lakeland, Florida 33801

Dear Senator Chiles:

This responds to your letter of May 11, 1976, to Mr. Cesar DeLeon, concerning a request by the National LP Gas Association of an interpretation of the applicability of the Federal Gas Pipeline safety Standards (49 CFR Part 192) to petroleum gas systems serving nine or less customers.

Basically, the Association states that if the Federal regulations are applicable, they are inappropriate, and systems serving nine or less customers should be exempt from regulation. As indicated by the enclosed copy of a letter responding to the Association, we have determined that the regulations apply in certain instances. At the same time, we do not believe the Association has clearly shown why the systems should be exempt from regulation. We are continuing to consider the request, however, and have asked the Association to provide further substantiating information.

We appreciate your interest in this matter.

Sincerely,  
James T. Curtis, Jr.

United States Senate  
Federal Building  
Lakeland, Florida 33801

May 11, 1976

Mr. Caesar DeLeon  
Acting Director  
Office of Pipeline Safety Operations  
Department of Transportation  
2100 Second Street, S. W.  
Washington, D. C. 20590

Dear Mr. DeLeon:

I am in receipt of a letter addressed to you dated April 8, 1976, from the National LP-Gas Association in reference to a request for an interpretation of Title 49 Code of Federal Regulations Section 192.11 (a). My Special Assistant in Lakeland, Florida, John Currie, talked with you briefly on this same matter a short time ago.

The gas industry has taken the position that its current safety regulations are more than adequate to meet the safety demands required. Based on this position, the industry has asked, through interpretation, that installations serving nine or less accounts on a single tank be deleted from the requirements of the regulation. The industry feels that through interpretation, rather than formally amending the regulation, the action can be handled expeditiously.

I respectfully request your earliest consideration of this important matter.

With kind regards, I am

Sincerely,  
Lawton Chiles

National LP Gas Association  
1800 N. Kent Street  
Arlington, Virginia

April 8, 1976

Mr. Caesar DeLeon  
Acting Director  
Office of Pipeline Safety Operations  
Department of Transportation  
2100 2nd Street, S. W.  
Washington, D. C. 20590

Dear Mr. DeLeon:

This letter is to request an interpretation of Title 49 Code of Federal Regulations Section 192.11(a). That Section states, "No operator may transport petroleum gas in a system that serves 10 or more customers, or in a system any portion of which is located in a public place (such as a highway), unless that system meets the requirements of this part and NFPA Standards No. 58 and No. 59. In the event of a conflict, the requirements of this part prevail."

The problems created by Section 192.11(a) relate to the confusion and uncertainty arising from the, fact that nowhere in Part 192 is the term "system" defined the very broad interpretation given to "public place", and the attempt to apply both the standards of the Natural Gas Pipeline Safety Act and NFPA Pamphlets No. 58 and No. 59. As presently stated Section 192.11(a) could be interpreted as bringing within its jurisdiction thousands of propane installations which serve less than 9 or even only a single customer in a "public Place" with the resultant inordinate cost of compliance or inequitable and unconscionable liability. The specific issues raised are:

- 1) By its very name the Natural Gas 'Pipeline Safety Act was intended for natural gas distribution systems, and specifically facilities involving substantial distances and numbers of customers. Nowhere in the history of the legislation or in the adoption of the regulations is there specific reference to the applicability of the Act to liquefied petroleum gas installations and particularly those involving a minimal number of end users. Evidence of this is shown from regulatory requirements contained in Part 192 which have no relation to LP-Gas distribution.
- 2) The application of Part 192 to LP-Gas or propane installations serving 9 or less customers would create an intolerable burden of enforcement for the Materials Transportation Bureau, Office of Pipeline Safety Operations, and render the regulations a nullity. This in turn could lead to contempt for any and all safety standards, and thus the defeat of the commonly shared goal of achieving the maximum protection of life and property.
- 3) The application of Part 192 to LP-Gas or propane installations serving of 9 or less customers would contribute nothing to safety. Propane gas systems have been installed under the provisions of the NFPA Pamphlets 58 and 59, and have enjoyed a remarkable safety record for many years. In fact, we are unaware of any incident involving an LP-Gas installation which adherence to Pamphlets 58 and 59 would not have prevented, and particularly which would have been prevented by the application of Part 192.
- 4) The unnecessary expense or unreasonable liability created by Part 192.11(a) as presently stated will force LP-Gas firms to sell their lines to the individual customers in order to avoid regulatory jurisdiction. The authority of regulatory agencies does not extend to the customer if he is not engaged in the distribution of gas. The acquisition of LP-Gas installations serving 9 or less customers which would result from the continued application of Section 192.11(a), would place the responsibility for maintaining a safe gas system under the control of those unfamiliar with

safety standards and beyond any effective impartial supervision. Clearly this is contrary to the interests of government, the LP-Gas industry, and the public.

We believe that these issues may best be resolved and the public most adequately served by a clarification to, or amendment of Section 192.11(a) to the effect that Part 192 does not apply liquefied petroleum gas installation or system serving 9 or less customers from one common source, and that such a system is subject to the application of NFPA Pamphlets 5B and 59.

This action would recognize that the typical LP-Gas installation is not subject to the jurisdiction of the Natural Gas Pipeline Safety Act; avoid the confusion created by attempting to apply two differing sets of safety standards; unambiguously place the operation of LP-Gas Installations under proven standards for safety with which both industry and governmental regulatory agencies are familiar, and which can realistically be enforced; and most importantly prevent the divesting of such systems into the hands of individual customers and beyond the application of necessary safety standards.

This request by the National LP-Gas Association, briefs the principal problems raised by Section 192.11(a) in its present form. The Association will supply any additional information which may be required, and in addition requests a conference between representatives of the Office of Pipeline Safety Operations and the Association for consideration of this matter.

Sincerely,  
Richard H. Stock