

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
WASHINGTON, D.C.

Part 192 – Transportation of Natural and Other Gas by Pipeline

PETITION FOR RULEMAKING

FILED BY
THE AMERICAN GAS ASSOCIATION

June 12, 2018

The American Gas Association (AGA) respectfully submits this petition for rulemaking to the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to the petition process as set forth in 49 CFR Part 190, Subpart “C” Procedures for Adoption of Rules, Chapter 190.331 Petitions for Rulemaking.

Founded in 1918, AGA represents more than 200 state regulated or municipal natural gas distribution companies. AGA members serve 95 percent of the 73 million natural gas customers, representing more than 177 million people in the United States who rely on natural gas service as a basic life necessity or use natural gas for business purposes. AGA and its members are deeply committed towards improving the safety performance of the natural gas industry. Numerous AGA programs and activities focus on the safe and efficient delivery of natural gas to customers. Safety continues to be the leading priority for AGA members and numerous AGA programs and activities focus on the safe and efficient delivery of natural gas to customers.

AGA is dedicated to the continued enhancement of pipeline safety and fully engages in the regulatory rulemaking and consensus standards development process to help ensure the safety of our member company employees, their facilities and the public surrounding those facilities. AGA commends PHMSA’s efforts to enhance the safety of pipelines, pipeline facilities and LNG and propane-air gas peak shaving facilities.

AGA and its members actively participate in voluntary national consensus standards development organizations, with several member companies’ personnel serving as NFPA Technical Committee members (NFPA 59 Utility LP-Gas Plant Code Technical Committee), and believes the amendments outlined below align with existing national consensus standards.

PHMSA currently incorporates by reference NFPA 59 (2004) in 49 CFR Part 192.11 “Petroleum Gas Systems”. AGA is petitioning PHMSA to amend 49 CFR Part 192.11 “Petroleum Gas Systems” to incorporate NFPA 59 (2018) by reference, which is a more comprehensive standard, and aligns with industry practice. AGA is also requesting that PHMSA update Part 192.7.h.3 to recognize the latest edition (2018) of the NFPA 59 Utility LP-Gas Plant Code. AGA believes that NFPA 59(2018) is in greater alignment with Part 192 than any previous editions.

This updated standard increases the overall safety of the pipeline systems by incorporating advanced engineering, design, construction, maintenance, fire protection and personnel training requirements. In addition to increasing the safety of these systems, these updates align with guidance provided from both PHMSA, as well as input from industry leaders to improve the operations, maintenance and management of these systems. AGA believes that NFPA 59(2018) addresses PHMSA's concerns with the completeness of prior editions of NFPA 59, and also aligns with the guidance given to federal agencies to use voluntary consensus standards in lieu of government-written standards whenever possible.

AGA also requests that PHMSA clarify Part 192.11 and identify the discrete and distinct use of NFPA 58 and NFPA 59, based on scope and applicability. The inclusion of both NFPA 58 and NFPA 59 was done to ensure PHMSA oversight for liquefied petroleum (LP) plants that extend into the public domain, which were not owned or operated by utilities. NFPA 58 section 1.3.2(3) specifically excludes utility owned facilities. As currently stated within Part 192.11, may be incorrectly applied to utility owned facilities. The amendments proposed below eliminates confusion for utility operators and those operators who provide commercial applications, without compromising PHMSA's oversight and the safety of these systems. This petition only addresses updates to NFPA 59, which apply to utility owned and operated LP plants.

Proposed Amendment to 49 CFR Part 192.11 (190.331 (b)(2))

192.11 Petroleum gas systems.

(a) Each plant that supplies petroleum gas by pipeline to a natural gas distribution system must meet the requirements of this part and NFPA 58 **and or** NFPA 59 **based on the scope and applicability statements in NFPA 58 and NFPA 59** (incorporated by reference, *see* §192.7).

(b) Each pipeline system subject to this part that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 **and or** 59, **based on the scope and applicability statements in NFPA 58 and NFPA 59.**

(c) In the event of a conflict between this part and NFPA 58 **and or** NFPA 59 (incorporated by reference, *see* §192.7), NFPA 58 **and or** NFPA 59 **shall prevail, based on the scope and applicability statements in NFPA 58 and NFPA 59.**

192.7 What documents are incorporated by reference partly or wholly in this part?

(h) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169, phone: 1 617 984-7275, Web site: <http://www.nfpa.org/>.

(3) NFPA-59 (~~2004~~) (**2018**), "Utility LP-Gas Plant Code," (NFPA-59), IBR approved for §192.11(a), (b); and (c).

Petitioners Interest (190.331 (b)(3))

AGA's interest in pursuing this petition is driven by the intent to further enhance the safety of the design, construction, maintenance, operation, fire protection, and personnel training requirements of these plants by the application of modern, up-to-date industry specific consensus standards. The 2018 edition of the NFPA 59 Utility LP-Gas Plant Code includes many lessons learned from industry subject matter experts, best practices, and additional consensus standards since the 2004 edition of NFPA 59 was published.

Incorporating the proposed revisions to Part 192.11 and 192.7 will further enhance the safety of LP facilities. Of the approximate 200 AGA member companies, approximately 14 companies own/operate approximately 35 utility gas plants that store over 83 million gallons of propane.

Comments and Data Supporting the Petition (190.331 (b)(4))

AGA and its members have advocated for PHMSA to incorporate by reference new and up-to-date LP standards. PHMSA has noted in the past that the existing NFPA standards may not adequately address safety, and supplemental oversight with Part 192 was necessary. AGA has actively worked with its members and the NFPA 59 Technical Committee to enhance NFPA 59, and align this standard with Part 192. In 2010, AGA met with PHMSA to outline the enhancements made with newer editions of NFPA 59, and address PHMSA outstanding concerns with NFPA 59¹. AGA believes the 2018 edition of NFPA comprehensively addresses PHMSA's concerns and should be incorporated by reference. These topics and the enhancements made within NFPA 59 editions beyond the 2004 edition are summarized below:

NFPA 59(2008):

- Incorporated by reference up-to-date codes/standards
- Many requirements of the code were clarified, and the organization of the document was simplified.

NFPA 59(2012):

- Incorporated by reference up-to-date codes/standards
- Added a new section for training personnel engaged in the maintenance or operation of propane–air mixing equipment.
- Added a new section on records retention for plants that were built or modified after the effective date of the 2012 edition.

NFPA 59(2015):

- Incorporated by reference up-to-date codes/standards
- Revised to clearly delineate between the use of NFPA 59 and applicable pipeline regulations published by the Department of Transportation (DOT).
- Expanded building ventilation requirements
- Created a new section to consolidate requirements for gas-fired vaporizers.
- Revised sizing method for non-refrigerated container relief devices to provide more accurate sizing for higher pressure and butane containment.
- Expanded existing corrosion protection requirements to reflect current DOT regulations and common practices.
- The requirements for corrosion protection were made retroactive to all facilities

¹ PHMSA Response: (Page 48595 of the Federal Register / Vol. 75, No 154 on Wednesday August 11, 2010) Petroleum gas transportation requirements need to achieve the same level of safety as natural gas transportation requirements. PHMSA continues to have concerns regarding the level of safety required in NFPA 58 and 59 standards in certain subject areas. The newer editions of NFPA 58 have expanded the scope of covered facilities and have more conflicting requirements than the currently incorporated editions. PHMSA believes that the NFPA 58 and 59 committees should analyze the following topics in consideration of public safety: Internal valves on tank penetrations transporting propane, relief valves, equipment separation and location distances, facility cathodic protection, and requirements for “retroactive” application of the standards.

NFPA 59(2018):

- Incorporated by reference up-to-date codes/standards.
- Clarified requirements for those placing containers back into service.
- Updated refrigerated container requirements to reflect current industry practices.
- Included definitions for component, facility, plant, and process pressure vessel.
- Added new piping cover requirements and separation distances.
- Clarified fire protection systems and referenced standards.

Cost/Benefit Potential Impacts (190.331 (c)(1))

The enhanced safety gained through the additional requirements in NFPA 59(2018) outweigh the marginal increases to primarily operating and maintenance (O&M) activities. The new requirements in NFPA 59(2018) are primarily requirements already enforceable by PHMSA under Part 192 and as such have a net zero increase to capital and O&M costs.

Incorporating the proposed amendments does benefit owners and operators of utility plants. Currently, operators must work with manufacturers building essential equipment, parts, and designs used for repairs and upgrades to modify their practices to align with outdated standards, or demonstrate equivalency. Amending the language within Part 192 removes this burden and aligns with a standard used within the industry.

Potential Impacts – Direct Effects on States, Relationship between Federal Government and States (190.331 (c)(2))

AGA and its members share a common opinion of their respective pipeline safety enforcement agencies with respect to the fact that these agencies have each demonstrated a continual commitment to the enforcement of the federal safety regulations and standards as federal regulations are revised. This petition and the proposed amendments will not affect that relationship and continual dedication to safety shared by both the State and Federal Government if PHMSA were to act on the petition as proposed.

Potential Impacts – Regulatory Burden (190.331 (c)(3))

The new requirements in the 2018 edition of NFPA 59 are primarily requirements already enforceable by PHMSA under Part 192 and as such have a net zero impact with respect to regulatory burden. Additionally, incorporating the amendments proposed within this proposal provides both operators and regulatory inspectors a holistic document which outlines the standards under which LP plants are governed to operators and regulatory inspectors.

Additionally, NFPA 59A(2018) holistically addresses PHMSA's concerns for public safety, and aligns with PHMSA's guidance on incorporating standards by reference which states “ (t)he National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) directs Federal agencies to use voluntary consensus standards in lieu of government-written standards whenever possible. Voluntary consensus standards are standards developed or adopted by voluntary bodies that develop, establish, or coordinate technical standards using agreed-upon procedures.”²

² <https://www.phmsa.dot.gov/standards-rulemaking/pipeline/standards-incorporated-reference>

Potential Impacts – Recordkeeping and Reporting (190.331 (c)(4))

Recordkeeping requirements will increase marginally to demonstrate compliance with the enhanced corrosion control requirements, clarified construction and modification records, and adjusted fire protection systems maintenance records resulting from updates of fire protection standards incorporated by reference within NFPA 59. There are no additional reporting requirements associated with this petition to incorporate by reference the 2018 edition of NFPA 59.

Potential Impacts – Natural and Social Environments (190.331 (c)(5))

New and existing LP plants will operate under a far more comprehensive set of requirements if NFPA 59(2018) is incorporated within Part 192. The enhancements outlined above increases the safety of the public living near these plants and emergency response agencies that may be called upon to respond to a plant if an emergency were to occur. AGA does not foresee any effects on the natural environment if PHMSA were to act on the petition as requested.

In conclusion based upon the rationale provided in this petition, the latest edition of NFPA 59 (2018) is the most comprehensive and technically sound edition published to date and is aligned with Part 192 requirements to minimize confusion and enhance compliance. Based on the rationale provided in this petition, AGA respectfully requests that PHMSA grant the petition by revising Part 192.11 to clarify the application of either NFPA 58 or NFPA 59 and update Part 192.7 to incorporate by reference the 2018 edition of the NFPA 59 Utility LP-Gas Plant Code.

Respectfully submitted,



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