



May 31, 2012

Office of Management and Budget
Submitted via: <http://www.regulations.gov>

Re: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities. {Docket OMB-2012-0003}

The purpose of this letter is to offer comments of the National Propane Gas Association (NPGA) on the Office of Management and Budget's (OMB) request for information (RFI) pertaining to the Federal government's participation and use of voluntary consensus standards as published in the March 30, 2012 *Federal Register*.

NPGA is the national trade association for the U.S. propane gas industry. Our membership consists of over 3,000 companies that produce, transport and sell propane on both a wholesale and retail basis. We also represent manufacturers and distributors of propane gas appliances and equipment. Our organization consists of 38 affiliated state and regional associations, as well as individual members in 28 countries around the world. Propane gas is used in millions of installations nationwide for home and commercial heating and cooking, in agriculture, in industrial processing, and as a clean-air alternative engine fuel for both over-the-road vehicles and industrial lift trucks.

By way of the RFI, OMB is seeking input on the impact of incorporating voluntary consensus standards into federal regulations. As a matter of background, because propane is a hazardous material, the propane industry is subject to a myriad of federal regulations as promulgated by agencies such as the Department of Transportation and Department of Homeland Security and the Department of Labor's Occupation Safety and Health Administration (OSHA), to name a few. These regulations often incorporate by reference other voluntary consensus standards.

More than 95% of NPGA members are considered small businesses according to the criteria established by the U.S. Small Business Administration (SBA). As such, when an agency incorporates certain standards by reference into the regulations, it will often have a more dramatic impact on the costs of regulatory compliance for these small businesses.

An example of this impact is when DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA), which regulates the highway transportation of hazardous materials, published an Advanced Notice of Proposed Rulemaking (ANPRM) in December 2010 seeking input on the incorporation of two major standards into its regulations.

The first standard was the American Society of Mechanical Engineers' (ASME) *Boiler and Pressure Vessel Code, Section XII* for the design, construction, and certification of cargo tank motor vehicles. PHMSA also considered incorporation by reference of the National Board of Boiler and Pressure Vessel Inspectors' *National Board Inspection Code* as it applies to the continuing qualification and maintenance of ASME stamped cargo tank motor vehicles and portable tanks constructed to standards in ASME *Section VIII* or ASME *Section XII*.

In the ANPRM, PHMSA stated that the cost of ASME *Section XII* was \$450 for the hard copy and the cost of the NBIC Code was \$195 for the hard copy (\$395 for electronic copy). The cost of nearly \$650, at a minimum, to simply review these standards for potential impacts on the industry was extremely excessive.

NPGA believes OMB needs to address the issue of reasonable availability and costs for voluntary standards when an agency seeks to adopt them as federal regulations, particularly as the costs impact small businesses. In other words, if an agency is seeking to impose a regulatory burden upon a regulated entity through requirements contained in an existing standard, the regulated entity should not be forced to pay for the contents of that standard upon which they will be required, by law, to comply.

While the aforementioned pertained to an ANPRM process, there are already numerous standards incorporated by reference in which the regulated industry must purchase and whose requirements must be implemented to comply with federal regulations. We urge OMB to review this closely as it seeks to develop a policy to address this matter.

We appreciate the opportunity to offer comments on this RFI.

Sincerely,

/mac

Michael A. Caldarera
Vice President, Regulatory & Technical Services