



December 30, 2013

Office of the Federal Register,  
The National Archives and Records Administration  
800 North Capitol Street NW, Suite 700  
Washington, DC 20001

**RE: Docket No. OFR-13-0001, Proposed Rulemaking for Incorporation By Reference**

Comments of the National Propane Gas Association

The National Propane Gas Association (“NPGA”) submits these comments in response to the October 2, 2013 Proposed Rulemaking from the Federal Register Office regarding, Incorporation by Reference (“IBR”).

NPGA is the national trade association of the propane industry having a membership of about 3,000 companies, with 39 state and regional associations representing members in all 50 states. Although the single largest group of NPGA members are retail marketers of propane gas, the membership includes propane producers, transporters and wholesalers, as well as manufacturers and distributors of associated equipment and containers. While NPGA’s membership covers a broad cross-section of categories, over 90 percent of our members are designated as small businesses.

NPGA requests that the Office of the Federal Register (OFR) proceed with caution when incorporating materials by reference into the Federal regulations. NPGA strongly encourages OFR to consider potential costs to those adhering to the federal regulations and potential conflicts that could arise between the federal regulations and the standards that are IBR’d.

There is an additional cost to industry for some standards that are adopted using IBR because often times the standards that are adopted are copyrighted. The organizations that copyright the standards view the standard itself as a money making venture and use that money to fund the organization’s operations. The cost of the standard is not paid by the government, but is paid by each company that needs to follow the standard, which is an additional cost to industry. These costs can be significant for small businesses in a highly regulated environment, such as the propane industry. The OFR should carefully consider how it interprets the concept of standards being “reasonably available,” and should consider a formal definition for the term. As a minimum, NPGA does support the OFR’s proposal that agencies address, within the preamble of a given IBR rulemaking, the attempt to make the standard reasonably available to the public.

NPGA urges OFR to carefully review all standards that are proposed for incorporation by reference into the federal regulations for potential costs to industry and any potential regulatory conflicts in the regulations. They should also consider specifying a formal definition for the term “reasonably available” to facilitate a better understanding of the IBR concept by the regulated community.

Thank you for the opportunity to comment. Please feel free to contact NPGA if you have any further questions.

Regards,

A handwritten signature in black ink, appearing to read "Robert F. Helminiak". The signature is fluid and cursive, with a large initial "R" and "H".

Robert F. Helminiak  
Director, Regulatory Affairs  
National Propane Gas Association